

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## California Science Center:

*The State Has Relinquished Control to the Foundation and Poorly Protected Its Interests*



April 1999  
98115

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# CALIFORNIA STATE AUDITOR

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KURT R. SJOBERG  
STATE AUDITOR

MARIANNE P. EVASHENK  
CHIEF DEPUTY STATE AUDITOR

April 7, 1999

98115

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the operations and management of the California Science Center (science center) and its relationship with its auxiliary, the California Science Center Foundation (foundation).

This report concludes that although the State is the science center's primary benefactor, it relinquished governance of the science center to the foundation. Specifically, while the State has historically controlled science center policy, management, and operations, these functions are now primarily under foundation direction. Further, we noted that state-appointed executives, who also serve the foundation in some capacity, are not properly protecting the State's interests in the science center and Exposition Park. This is due in part to a series of decisions that these executives made and actions they took, which favor the foundation's interests, particularly in matters of potential conflict between the State and the foundation. Finally, and perhaps as important, the science center's administration has also failed to operate in a fiscally responsible and legal manner in other aspects of its operations.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kurt R. Sjoberg".

KURT R. SJOBERG  
State Auditor

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# SUMMARY

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## Audit Highlights . . .

*Our audit revealed these conditions at the California Science Center (science center):*

- In its attempt to utilize a public-private partnership, the science center has essentially relinquished control to the California Science Center Foundation (foundation).*
  - State funds are the primary source of support for the science center's programs and capital improvements.*
  - State-appointed executives do not protect the science center because they neither enforce agreements with the foundation nor ensure the foundation reimburses the State for certain expenses.*
  - Its management has failed to conduct the State's business in a fiscally responsible and legal manner.*
- 

## RESULTS IN BRIEF

**I**n early 1998, the new California Science Center (science center) opened to the public. Formerly known as the California Museum of Science and Industry (CMSI), the science center is now a new state-of-the-art science museum. Its primary purpose is to stimulate Californians' interest in science, industry, and economics.

The science center is located in Exposition Park (park), just south of downtown Los Angeles. The park is perhaps best known as the host site of the 1984 Olympics. The State owns most of the land within the park but leases much of it to the city and county of Los Angeles and the Coliseum Commission to operate other museums and sports venues there.

The California Science Center Foundation (foundation) is an auxiliary organization whose primary purpose is to support the science center through fund raising for science exhibits and educational programs. Since 1992, the foundation has actively raised funds for the new science center and contributed \$15.9 million for its exhibits and \$19.6 million for educational programs.

In its attempt to utilize a public-private partnership, the State has essentially relinquished governance of the science center to its foundation. While the State has historically controlled science center policy, management, and operations, these functions are now primarily under foundation direction. This is evidenced by the composition of the executive director's management team: six of seven management positions are partially or fully affiliated with the foundation. In addition, the one position compensated fully by the State is currently vacant, and the science center management has made only minimal efforts to fill it.

In 1998, the executive director stated that the foundation has contributed more funds as State funding was reduced, and those who raise funds want input and consultation regarding management of the science center. However, we determined that although the foundation has contributed to enhancing the science center, the State has always been the science center's

primary source of support: Public funds have paid the majority of the science center's capital improvements as well as for its programs.

Because the executive director and two deputies serve both the State and the foundation, they may be faced with competing interests. While the new science center and its educational programs are a significant improvement over the former CMSI, state-appointed executives are not properly protecting the State's interests in the science center and the park. Decisions these executives made or actions they took demonstrate their failure to adequately protect the State's significant investment in the science center and further confirms the State's weakened position. Moreover, many of these decisions appear to favor the foundation's interests, which exemplifies our concerns. Specifically, the science center's management failed to protect the State's interest when it:

- Allowed the State to pay more than \$1 million for exhibit maintenance despite the foundation's contractual obligations to maintain its own assets.
- Permitted the foundation to utilize about \$128,000 in net profit to support its operations even though this profit is contractually restricted to improving science center exhibits and education programs.
- Failed to ensure that the State was reimbursed for expenses it incurred when the foundation rented out the Loker Conference Center and other parts of the science center for special events.
- Permitted the foundation to charge fees for certain exhibits that are operated and maintained by the State while retaining all such exhibit fees to support foundation operations.

Finally, the science center's management also failed to conduct the State's business in a fiscally responsible and legal manner. In particular, we determined that the science center did not properly manage the State's business when it:

- Compensated some employees for hours they did not work.
- Violated state contracting procedures and circumvented state controls in administering contracts.

- Allowed a food service vendor to operate on its premises without a contract for more than a year.
- Has only had two valid enforceable contracts for parking operations since 1990—yet parking revenues are just under \$2 million annually—and has not employed reasonable methods to verify that the State is receiving all of the parking revenues to which it is entitled and may have no recourse for recouping the lost revenue.

## RECOMMENDATIONS

Because the State has a substantial investment in the science center and continues to provide its primary support, the Legislature should re-examine California Government Code, Section 18000.5 and determine whether allowing state employees to render services to a nonprofit corporation for additional compensation continues to serve the State’s best interest.

In its attempt to use a public-private partnership to enhance the science center, the State has essentially relinquished governance to the foundation. The State needs to regain management control of the science center so that the State’s interests are better protected. Therefore, the State and Consumer Services Agency (agency) should take the following actions:

- Ensure that science center management utilizes civil servants in management positions to guarantee the State occupies positions of authority that set policy.
- Consider restructuring the reporting responsibilities of management at the science center so that the deputy director of administration reports directly to an individual at the agency.
- Make sure that the foundation fully discloses to the Department of Personnel Administration the compensation it intends to provide to science center employees, including all perquisites such as car allowances, and club memberships, and reports annually this information to the Office of the State Controller.

Science center administrators need to properly protect the State's interests in the science center, particularly in its relationship with the foundation. To regain control of its resources, the science center should review and enforce all agreements with its foundation. Specifically, the science center should take the following actions:

- Require the foundation to pay costs of exhibit maintenance.
- Require the foundation to retain the proceeds from its gift center and Loker Conference Center operations in restricted funds and limit the use of net revenue from these operations for science center exhibits and educational programs.
- Immediately prepare Memorandums of Understanding (MOUs) for all exhibits currently housed in the science center and develop procedures to ensure that it prepares MOUs for any future exhibits displayed at the science center.
- Promptly bill and collect from the foundation amounts owed to the State.
- Submit current and future agreements that it has with the foundation to a designated individual at the agency for review and approval of terms and conditions in those agreements. The designated individual at the agency should ensure that provisions in any and all agreements are in the State's best interest.

To ensure that science center employees who receive compensation from the State and the foundation mitigate conflicts of interests in the future, these executives should review the relevant laws and regulations and abide by them in their dealings with the foundation and otherwise.

The science center should take immediate steps to obtain valid, enforceable contracts for its food service and parking operations. As such, the science center should do the following:

- Submit the proposed contract for food service operations to a designated individual at the agency for review and approval.
- Continue its negotiations with the food service operator and submit the proposed contract to the Department of General Services for review and approval.

- Immediately prepare the necessary documents to advertise and solicit bids from potential parking lot operators. It should also submit future contracts to the agency for review and approval and work with the Department of General Services to ensure that it completes valid and enforceable contracts.

The Legislature should review the structure of and the relationships among the science center's state board, the foundation's board of trustees, and the Coliseum Commission and determine whether membership on more than one board or commission potentially compromises state board members' ability to protect the State's interests.

The governor should promptly appoint two new members to the science center's state board to replace the members' whose terms expired on January 15, 1999.

## AGENCY COMMENTS

While acknowledging the contributions of the public-private partnership, the agency agreed with the concerns set forth in the audit and has pledged to work with both the science center and the foundation to address each recommendation. In addition, the science center recognized that the audit raised many issues it needs to address. Although the science center does not agree with each and every finding, in its response, the science center outlined steps it has begun taking to implement many of our recommendations. n

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# INTRODUCTION

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## BACKGROUND

In early 1998, the California Science Center (science center) opened to the public. Formerly known as the California Museum of Science and Industry (CMSI), the science center is now a new state-of-the-art science museum. Its primary purpose is to create and stimulate the interest of Californians in science, industry, and economics. Admission to the science center is free.

The science center is in Exposition Park (park), a 104-acre tract of land just south of downtown Los Angeles that is perhaps best known as the host site of the 1984 Olympics. The State owns most of the land within the park in the name of the science center but leases much of it to the city and county of Los Angeles and to the Coliseum Commission, a Joint Powers Authority between the city and county of Los Angeles and the State. The city and county of Los Angeles and the Coliseum Commission operate other museums and sports venues within the park.

### The Master Plan for the Science Center and Exposition Park

In the early 1990s, the Legislature appropriated funds for the CMSI to design new facilities and for the park to embark on a master plan for the improvement of the park as a whole. Over time, the plans for the science center's new facilities and for the park improvements in general have melded together and are now being approached in phases.

Overall, the master plan calls for the construction of the new science center, a science and math school, and a teacher-resource center. It also includes an agenda for improving parking and restoring green space within the park, space which has been lost over the years to parking lots. To restore green space, the master plan envisions small community parks at each of the four corners of the larger park, tree-lined promenades reminiscent of New York's Central Park along each of the four sides, and other open green areas for the community's recreational use.

This work is planned in three phases, the first of which is essentially complete. Phase one marked the construction of the main science center building, a corner park, a tree-lined promenade on the west side of the park, and one soccer field. See Figure 1. In addition, as part of phase one, the science center is poised to begin renovating the existing structures that will eventually house a school and a teacher-resource center. Phases two and three, which have not yet begun, will add exhibit and office space to the science center and also complete the remaining corner parks, tree-lined promenades, and parking improvements.

### Science Center Operations and the California Science Center Foundation

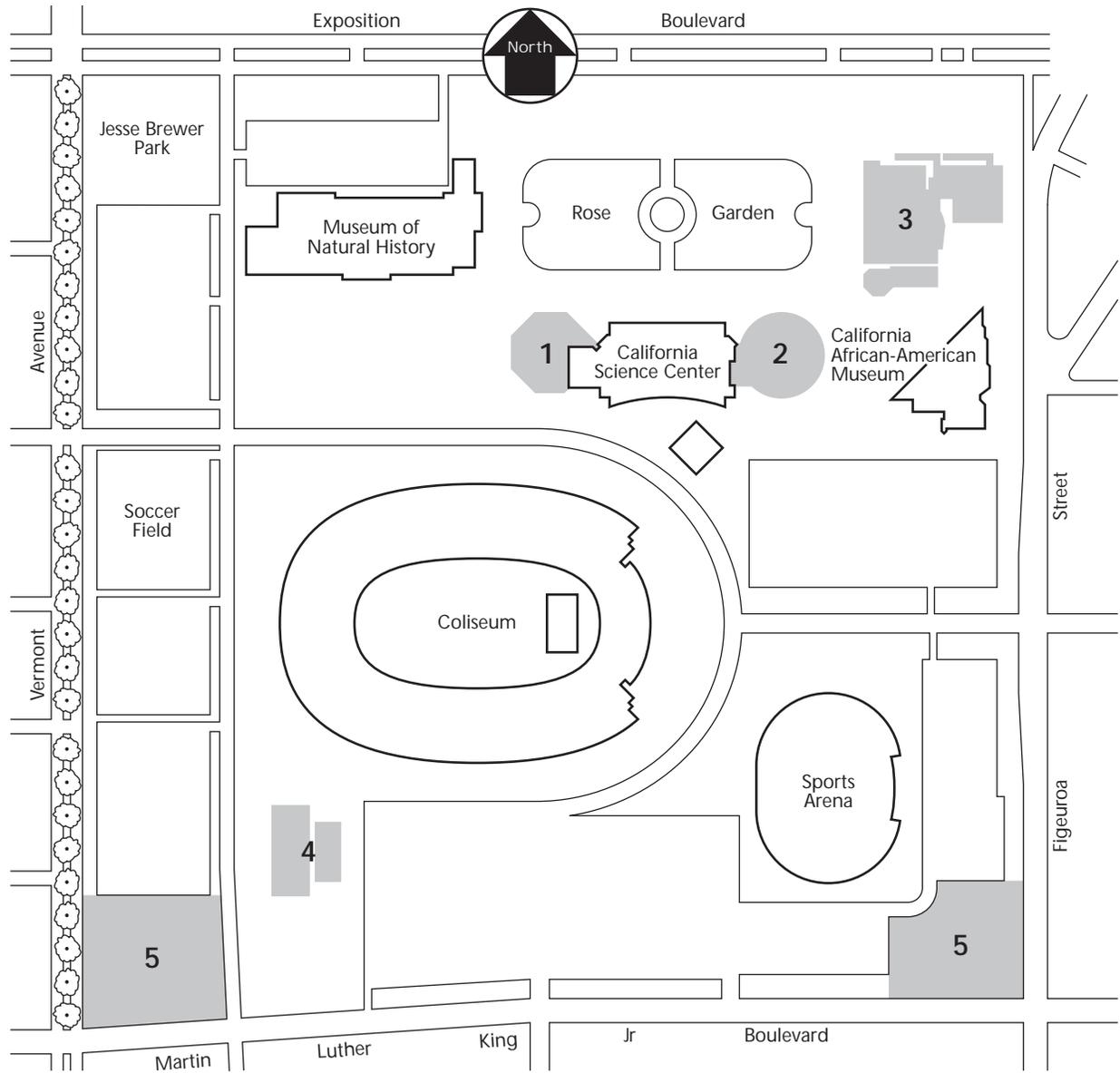
A nine-member board of directors appointed by the governor manages the science center and oversees the State's interests in the park. This board appoints an executive director to supervise the day-to-day operations of the science center and the park. Several members of the current board are members of the executive committee for the California Science Center Foundation (foundation) as well. The foundation, as described below, is intimately involved with the science center's daily operations and long-term planning.

The foundation is a nonprofit auxiliary organization formed in 1950 to support the science center, then known as CMSI, through fund raising for science exhibits and educational programs. Since 1992, the foundation has actively raised funds for the new science center and contributed \$15.9 million for the science center's exhibits and \$19.6 million for educational programs. In addition to fund raising, the foundation has numerous agreements with the science center that allow it to operate enterprises within the science center and to provide certain services.

Furthermore, the Legislature passed a law in 1986 allowing employees of the science center, under certain conditions, to receive additional compensation for services they perform for private entities such as the foundation. Thus, the science center's executive director and two deputy directors are currently employed by the foundation in capacities similar to those they hold with the State. These dually compensated executives reflect the degree to which the workings of the science center and the foundation have become enmeshed.

FIGURE 1

Exposition Park Existing Structures and Planned Improvements



**Planned Improvements**

- ① World of the Pacific
- ② Worlds Beyond
- ③ Science Center School
- ④ Community Center
- ⑤ Corner Parks

## SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee requested the Bureau of State Audits to assess the operations and management of the science center and to examine its relationship with its auxiliary, the foundation.

To more fully understand the science center and the environment in which it operates, we researched the laws and regulations governing it. In addition, we reviewed the park's master plan and a study the Harold Price Center for Entrepreneurial Studies and the Advanced Policy Institute at the University of California, Los Angeles, recently completed on the governance of the park. We also analyzed numerous agreements between the science center and its vendors, as well as the agreements between the science center and the foundation. Moreover, we interviewed management staff from the other entities in the park, including those from two museums and the Coliseum Commission, to get their perspectives on the park and the future challenges they face.

Next, to determine if the science center is operated and managed in accordance with the State's rules and regulations, we reviewed its contracting, payroll, and accounting procedures. Specifically, we examined the science center's agreement with its parking lot operator to discover whether both the science center and the operator were complying with the provisions of this agreement. In addition, we selected a sample of other contracts to see whether the science center had complied with the State's public contracting procedures. Finally, we reviewed the science center's overtime charges and accounts payable and receivable.

To understand the science center's complex relationship with the foundation, we first reviewed the agreements between the two entities. Within these agreements, we identified key provisions and determined how each entity has complied with those provisions. We also reviewed the foundation's operations and those of the several enterprises the foundation oversees to evaluate the foundation's financial stability.

We then reviewed the laws governing dual compensation for science center employees and determined whether the foundation has complied with the guidelines established by the Department of Personnel Administration. In addition,

we assessed the appropriateness of the science center's governance structure to ascertain whether the State's interests are properly protected by dually compensated employees.

To determine how the science center is managed, we compared staffing changes within the science center and foundation, assessing the relative managerial control of each entity. In addition, we identified and analyzed recently created foundation-compensated positions to determine if these positions exist within the State's civil service structure and what steps the science center took to add certain positions.

Finally, to understand the respective roles the foundation and State play in supporting the science center, we analyzed the capital investments made by each in the new facility. In addition, we compared the contributions that the State makes to the science center's program through its annual appropriation to those that the foundation makes through its program funding. Moreover, we assessed the foundation's current fund-raising activities to ascertain the likelihood of its future success. n

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# CHAPTER 1

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## ***Although the State Is the Science Center's Primary Source of Funding, It Has Relinquished Administrative Control to the Foundation***

### CHAPTER SUMMARY

In its attempt to utilize a public-private partnership to upgrade the California Science Center (science center), the State has essentially relinquished governance of it to the California Science Center Foundation (foundation). Whereas the State has historically controlled science center policy, management, and operations, these functions are now primarily under foundation direction. This is evidenced by the composition of the executive director's management team: 6 of 7 management positions are partially or fully affiliated with the foundation. In addition, although the State has created 51 new positions on the science center staff since fiscal year 1996-97, only 1 is management, a position that is also compensated by the foundation. In contrast, the foundation has added 85 staff, 8 of them managers. As a result, the foundation occupies positions of authority that set policy, while the State serves to police, clean, and maintain the science center.

In 1998, the executive director stated that the foundation's budget is now larger than the State's, and as state funding has been reduced, the foundation has backfilled the reduced dollars and those who raise funds want input and consultation regarding management of the science center. He further stated that this can happen without compromising the science center's mission and the State's authority. He is correct in noting that the foundation's contributions in the past have been sizable. However, the State has always been the science center's primary source of support: Public funds have paid the majority of the science center's capital improvements as well as its programs. Moreover, the foundation's current financial condition is strained and its fund-raising efforts are uncertain.

## GOVERNANCE OVER THE SCIENCE CENTER HAS SHIFTED FROM THE STATE TO THE FOUNDATION

The science center's executive director oversees both the science center's civil service staff and its foundation staff. The executive director's management team consists of six people: two deputy directors/senior vice presidents who serve both the State and the foundation<sup>1</sup>; one deputy director of administration who serves the State only; and two senior vice presidents and a human resources director who all work for the foundation only. Therefore, as shown in Figure 2, of the seven top management positions (including the executive director) that guide the science center's activities, six are partially or fully affiliated with the foundation.

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*Six of seven science center executives are partially or fully affiliated with the foundation.*

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In addition, in the past two years the foundation has created six new midlevel management positions within the science center administration, four of which have equivalent state classifications. By adding positions to the foundation rather than the State, the foundation's authority over the science center outweighs the State's.

### The Foundation Has Unnecessarily Increased the Number of Its Management Positions

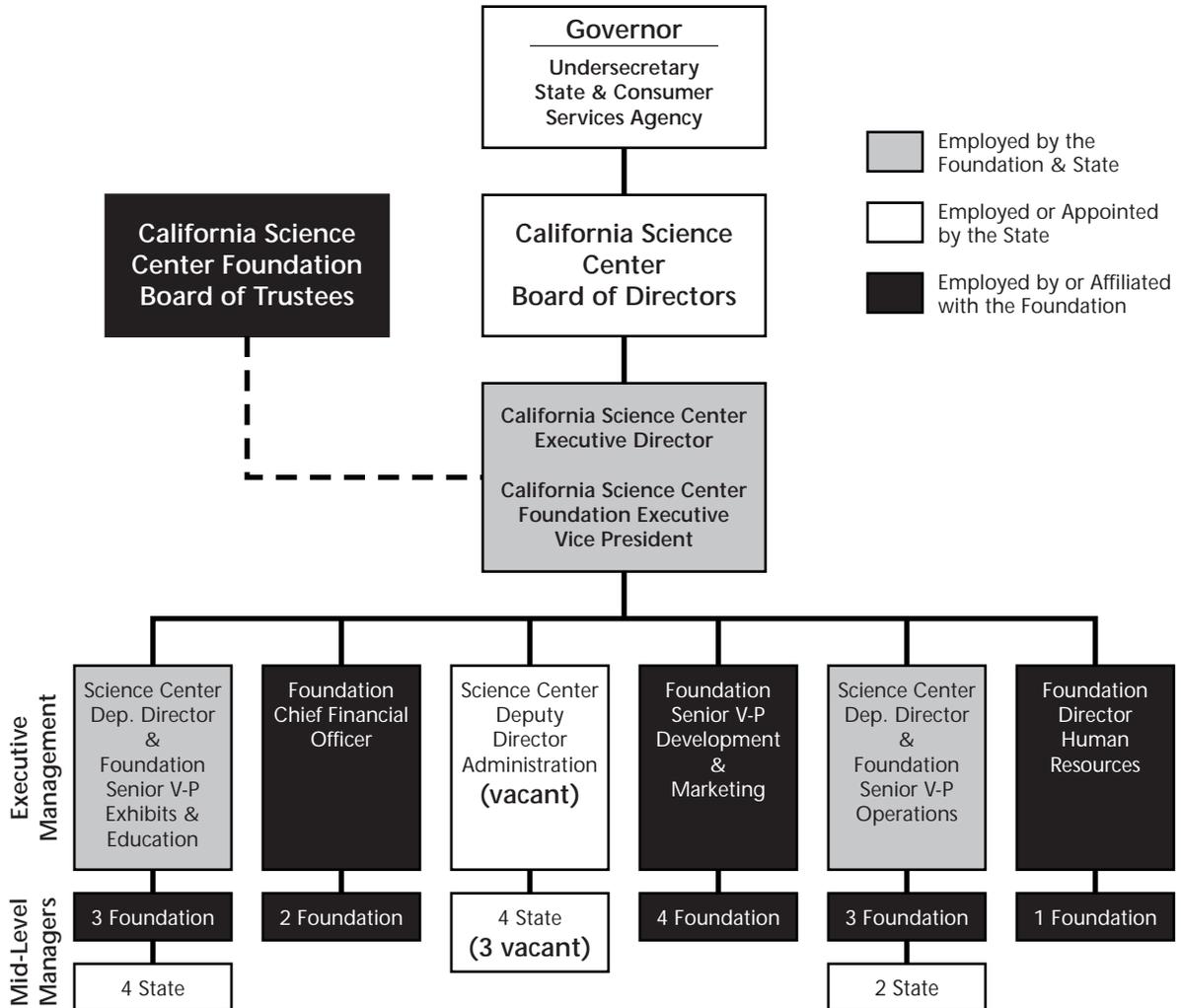
The foundation, like the State, has significantly increased its staff since fiscal year 1996-97, adding approximately 85 positions for a total of 178 employees. Although most of these additions are in the education and guest services departments, the foundation has also added 2 top management positions and 6 midlevel managers. Because many of these new staff positions were identified in a management study as necessary to successfully operate the new science center, it appears that the foundation's decision to fund these positions was an attempt to gain managerial control. Although 4 of the 6 midlevel management positions had equivalent state classifications and could have been funded by the State, administrators of the science center chose instead to create foundation management positions, thereby circumventing state civil service hiring procedures and thus lessening state control.

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<sup>1</sup> In Chapter 2, we discuss the problems that arise from the dual employment of these executives.

FIGURE 2

California Science Center Management Structure



The foundation enlisted McKinsey and Company (a consulting firm) to produce the aforementioned study in 1996. The study's stated goal was the improvement of the organization and operations of the existing museum, the California Museum of Science and Industry (CMSI), in order to most successfully establish the new science center. Between October 1996 and January 1997, the consulting firm conducted its analysis and developed its findings, which were presented to a steering committee of state and foundation board members in April 1997.

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*The foundation has apparently attempted to gain managerial control of the science center based on the recommendations of a study it commissioned.*

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Within the improvement plan, the consulting firm identified positions that were needed and proposed a new organizational structure of 176 full-time employees, to be compensated by the State, the foundation, or both. Eighty-seven employees would work for the State and 86 for the foundation, while 3 executives would work for both. However, of the 7 executive management positions in the proposed organizational structure, only 1 was exclusively a State employee, while the remaining 6 were partially or fully affiliated with the foundation. In addition, more than 68 percent of the proposed State staff were for janitorial, public safety, or maintenance functions. Based on the McKinsey study, it appears that the foundation began planning in 1997 to govern the science center by increasing its managerial control.

As previously noted, in its efforts to strengthen its managerial presence, on several occasions the foundation has increased administrative positions that could have been added within the State's civil service structure. Furthermore, when it created a new foundation position for senior vice president of development and marketing, the foundation essentially eliminated an existing state position. The state position, deputy director of development, was held by a state employee whose salary was only supplemented by the foundation. Yet, despite this existing position, the foundation created its own senior vice president of development and marketing, promoting a foundation employee to serve in that role. Shortly thereafter, the state employee resigned.

Similarly, the foundation created a position for a vice president of marketing, even though a nearly identical position was developed previously for the science center, formerly the CMSI. The state job classifications listed a Marketing Specialist, California Museum of Science and Industry/District Agricultural Associations. The responsibilities included development, implementation, and maintenance of a comprehensive marketing and advertising program. Comparably, the foundation's new vice president of marketing is, according to his job description, responsible for the "planning, execution, and evaluation of marketing programs." Therefore, because a comparable position exists in the civil service structure, there was no need for the foundation to create and fill this new position.

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*In an effort to strengthen its managerial presence, the foundation created some administrative positions that could have been filled by state civil service employees.*

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In a third and final example, the foundation created a position for a vice president of education in 1997, yet the State pays for the position. This position works with all of the educational components of the science center to create exhibits, develop educational

demonstrations, and establish school and community programs. As with the two previous examples, a comparable state classification, designed specifically for the science center, already existed in the civil service structure. Nonetheless, the foundation elected to create its own position but funded it through a contract with the State.

### Recent Vacancies in State Administration Create a Significant Void in State Control

As stated, only one position within the executive director's management team is compensated solely by the State: the deputy director of administration. This position oversees the State's business and manages nearly one-third of the science center's civil servants, primarily those working in the personnel, accounting, contracting, and public safety departments. However, the deputy director of administration position has been vacant since September 1998, and, to date, the science center has done little to fill it. In fact, the science center did not notify the State Personnel Board of the vacancy until December 1998 and, as of March 26, 1999, has yet to advertise it to other state agencies or in the public media.

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*Vacancies within the science center's administration division leaves the State without key persons—independent from the foundation—to protect its interests.*

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Furthermore, between January and March 1, 1999, three of the State's four midlevel managers who report to the deputy director of administration resigned. None of these position vacancies had been advertised as of March 26, 1999. In the meantime, to fill the gap, the functions of the deputy director of administration and the managers below the deputy director of administration have been shifted to the deputy director of operations, who also serves as the foundation's senior vice president. These four vacancies create a significant void in the science center's administrative division and leave the State without a person independent from the foundation in a position to protect the State's interests.

In addition to leaving state-compensated administrative positions vacant, the science center has also failed to create new managerial opportunities for state employees. The science center has a total of approximately 156 authorized civil service positions, including 51 that were added since fiscal year 1996-97. However, only one of the added positions, deputy director of operations, is at the management level, and this individual also serves in a similar capacity for the foundation. The majority of the 50 remaining new civil service positions were added in plant maintenance, exhibit maintenance, and janitorial services.

## ALTHOUGH THE FOUNDATION'S CAPITAL CONTRIBUTIONS TO THE SCIENCE CENTER HAVE BEEN SIZABLE, THE STATE PROVIDES THE SCIENCE CENTER'S PRIMARY SUPPORT

In its bylaws, the foundation cites as its primary purpose the promotion and expansion of the science center's exhibits, educational programs, and scientific activities. Over the past six fiscal years, the foundation has fulfilled its purpose and enhanced the science center by privately raising in excess of \$25.5 million through its "capital campaign," 62 percent of which went into exhibits for the new science center. Despite these significant contributions, however, the State has consistently been the main source of funding for the new science center's capital improvements<sup>2</sup>. Moreover, the foundation's financial condition has deteriorated recently, and it is now struggling to support itself and faces challenges in phase two that it did not face in phase one.

### The State's Contributions to the New Science Center Far Exceeded the Foundation's

Phase one of the master plan for renovating Exposition Park included the construction of a new science center building as well as the execution of other park improvements. The foundation assisted in implementing phase one by raising funds for the new science center's exhibits. Since 1992, the foundation raised in excess of \$25.5 million, using approximately \$15.9 million to purchase exhibits. However, as shown in Table 1, public funds, including those supplied by the State, accounted for 80 percent of the total phase one cost of \$81 million.

As the table shows, public funds from the State and from Los Angeles County were the primary source of funding for phase one projects. Specifically, the State provided \$53 million for the construction of the museum and IMAX theater, while Los Angeles County contributed \$12.1 million for Exposition Park improvements as well as the science center's infrastructure. Therefore, although the foundation enhanced the science center by contributing 20 percent of the phase one funding overall, the State's investment far exceeds the foundation's.

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<sup>2</sup> The nature of the capital improvements included in the master plan for Exposition Park are discussed in the Introduction.

**TABLE 1**

**State, County, and Foundation Funding  
For Phase One Capital Projects  
(In Thousands)**

Phase One Project	Funding: State	Funding: County (Park Bonds)	Funding: Foundation	
<b>Building/Structure</b>				
Museum	\$ 45,545			
IMAX theater	7,414			
Exposition park		\$ 7,532		
Park signage		429		
Soccer field		2,235		
Building signage		317	\$ 123	
<b>Various Infrastructure and Exhibits</b>				
		1,551		
<b>Exhibit Components</b>				
Science Court			1,640	
World of Life			6,374	
Creative World			5,900	
Science Plaza			780	
Worlds Beyond			156	
World of the Pacific			334	
Special Exhibit Gallery			81	
Project management cost*			527	
<b>Totals</b>	<b>\$ 52,959</b>	<b>\$ 12,064</b>	<b>\$15,915</b>	<b>\$ 80,938</b>
<b>Percent</b>	<b>65%</b>	<b>15%</b>	<b>20%</b>	<b>100%</b>

\* Project management costs represent foundation personal services costs. Other project management costs for the State, county, and foundation are included in the building and exhibit components above.

**The Foundation Faces Challenges in its  
Fundraising for Further Renovations**

Phase two of the master plan is being developed. The foundation set a preliminary fund-raising goal of \$116 million and is targeting both public and private donors. However, the foundation faces challenges in this phase that it did not face in phase one.

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*An extremely ambitious fundraising goal—more than four times greater than its phase one goal—will significantly task the foundation.*

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Specifically, the foundation's phase two fund-raising goal increased by more than 400 percent over phase one. The campaign for phase two is coming rather quickly after phase one and donors may be unwilling to pledge such large funds to a single location. In addition, as in any city, the Los Angeles donor-base is limited in number and in the size of potential contributions. Finally, in February 1998, the foundation's vice president of development resigned and now works in the same capacity at another museum in Exposition Park. The loss of a successful, recognized fund-raising leader may require the foundation to redefine itself and its message in order to attract the attention and support it needs.

### Annual State Appropriation Provides the Majority of Support for the Science Center's Programs

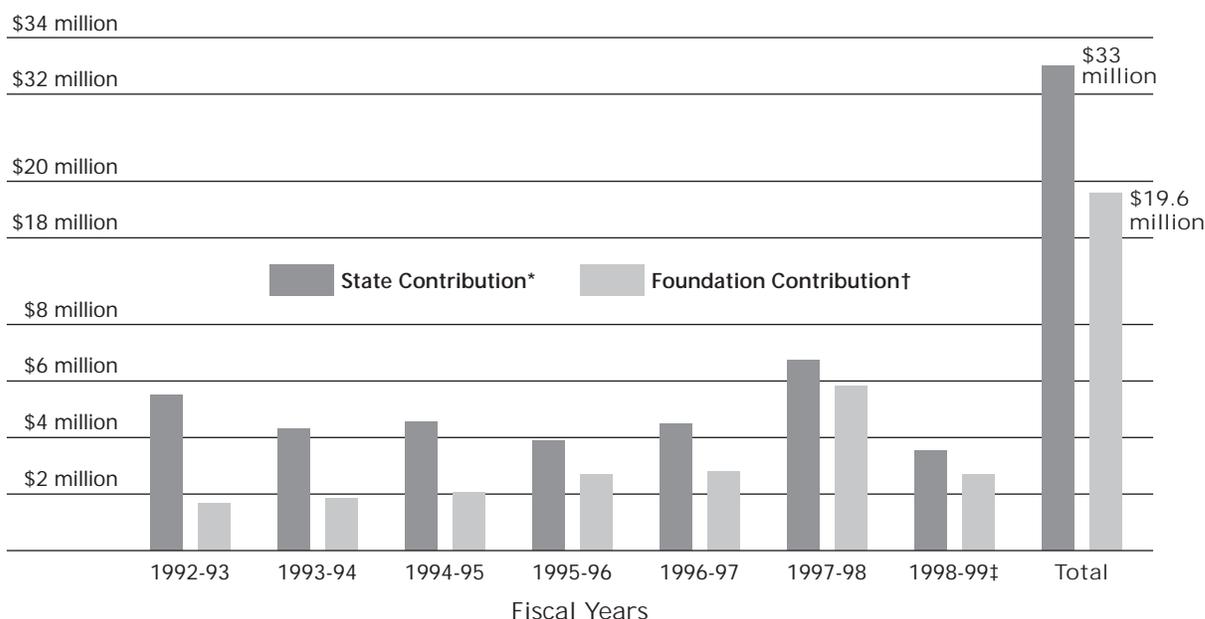
The capital projects discussed previously are just one aspect of the science center's funding needs. Ongoing programs also require funding, and both the State and foundation provide support for these. The State annually appropriates funds for the science center's programs while the foundation supports the science center through yearly fund-raising campaigns and its earned income. In 1998, the science center's executive director testified before the Joint Legislative Audit Committee that the foundation's budget is now larger than the State's, and said as state funding has been reduced, the science center's foundation has backfilled the reduced dollars. However, Figure 3 shows that for the past several years, the State's contributions have far outweighed the foundation's. Specifically, since fiscal year 1992-93, the State's total contributions to the science center's programs have exceeded the foundation's by nearly 2-to-1.

Between fiscal years 1992-93 and 1996-97, the science center's state expenditures fluctuated. However, for each of these fiscal years, the State's support of the science center exceeded the foundation's by as much as 3-to-1. In fiscal year 1997-98, which marked the science center's opening, the State's expenditures jumped by \$2.3 million over the previous fiscal year. The Legislature increased the science center's appropriation in fiscal year 1997-98, in part to pay for exhibit maintenance staff and equipment, conference center furnishings, lease-revenue bond payments, and to contract for guest services personnel. In fiscal year 1998-99, the science center's General Fund appropriation was further increased to \$8.6 million to restore Aerospace Hall,

the building where aviation and space-related technology are displayed. For fiscal year 1999-2000, the science center is seeking additional budget increases from the Legislature.

**FIGURE 3**

**State and Foundation Science Center Program Support  
For Fiscal Years 1992-93 Through 1998-99  
(In Millions)**



\* State expenditures include General Fund only.

† Foundation's program support costs include administration; exhibits; educational programs; volunteer, membership, and guest services; and communications.

‡ Fiscal year 1998-99 – as of December 31, 1998.

In comparison, the foundation's program contributions increased steadily between fiscal years 1992-93 and 1997-98. This increase mainly reflects the foundation's support of exhibits and education programs. Education programs support is the most significant piece of the foundation's program support. For example, the foundation funded \$8.4 million in education programs, almost 50 percent of the total it provided for program support. Nonetheless, over the past six and one-half fiscal years, the foundation has contributed only 37 percent of the science center's overall program support.

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*Over the past six and one-half fiscal years, the foundation contributed 37 percent of the science center's overall program support.*

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Finally, in late 1998, the science center submitted six Budget Change Proposals (BCPs) to the Department of Finance requesting an additional \$4.4 million for added operations, program, and fiscal and accounting staff. However, according to the executive director, because of the transition to a new administration, the BCPs were not acted upon. Therefore, the science center recently submitted letters to the Department of Finance again requesting changes to its fiscal year 1999-2000 appropriation. We requested copies of the science center's finance letters but it refused to provide them; we therefore subpoenaed the information. As of March 26, 1999, we are continuing our legal pursuit of these records.

### **While It Set Ambitious Fund-raising Goals, the Foundation Is Struggling to Support Itself and Contribute to the Science Center**

The foundation is currently struggling to support itself and faces significant fund-raising challenges in the future. Although it had projected a \$826,000 operating loss for fiscal year 1998-99, the foundation was in fact operating at a \$1.2 million loss as of December 1998. Sluggish fund raising contributed to this deficit situation because the foundation had expected that 82 percent of its annual operating revenues would come from contributions. As a result, in January 1999, halfway through its fiscal year, the foundation substantially revised its operating budget by reducing revenues and expenses and setting aggressive fund-raising goals for the second half of the year. Yet this plan may be unrealistic in light of two problems: The fund-raising goals set by the foundation may well be unattainable, and the foundation's actual deficit is much larger than it appears because the foundation's use of restricted funds masks its true financial position.

When the new science center opened, the foundation's structure and role changed. The foundation hired additional program personnel as well as administrative staff and began operating several enterprises within the science center. By taking such steps, the foundation increased its operating costs from \$1.3 million in fiscal year 1996-97 to \$3.6 million in fiscal year 1997-98.

The foundation relies mainly on private donations to support its operations. Table 2 shows that for fiscal year 1998-99 the foundation expects to receive contributions totaling 84 percent of its revised budget, or \$2.5 million, to be used to support its general operations. However, as of December 1998, the foundation had

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*Halfway through the fiscal year, the foundation had realized only 19 percent of its fundraising goal.*

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realized only \$474,490, 19 percent of this goal. The following table reflects the foundation's original and revised operating budgets for fiscal year 1998-99 and the sources from which it expects to obtain this revenue.

**TABLE 2**

**California Science Center Foundation  
Original and Revised Operating Budgets  
Fiscal Year 1998-99  
(Dollars In Thousands)**

	Original Budget	Percent of Total	Revised Budget	Percent of Total	Revenue Raised as of 12/31/98	Percent of Revenue Raised as of 12/31/98
Contributions	\$ 2,716	81%	\$ 2,482	84%	\$ 475	19%
Exhibit charges/miscellaneous fees	200	6	107	3	52	49
Interest and other	423	13	381	13	196	51
Revenue—foundation operations	3,339	100%	2,970	100%	723	24%
Conference Center—Net	106		66		(32)	
Revenue—Operating account total	3,445		3,036		691	
Expenses	(4,271)		(3,905)		(1,919)	
Net Income (Loss) Projected	\$ (826)		\$ (869)		\$ (1,228)	

In its revised budget as shown in Table 2, the foundation lowered its total fund-raising goal for its operating account from \$2.7 million to \$2.5 million. Still, the foundation's projections are very aggressive considering that it must realize 81 percent of its revised fund-raising goal between January and July 1999. As of February 28, 1999, the foundation had raised an additional \$666,385, of which \$239,468 came from its annual gala. Nonetheless, between March and July 1999, the foundation must secure another \$1.3 million in funding, nearly half of its total fund-raising goal for the entire fiscal year.

*The Foundation's Inappropriate Use of Restricted Funds Masks Its True Financial Position*

In addition to the budgeting problems already discussed, the foundation has improperly used restricted funds to pay for its operating expenses. Table 3 reflects that the foundation's revised operating expenses exceed its donations and other revenue by \$869,000. To offset this loss, the foundation relies on income from several enterprises it runs in the science center, including the IMAX theater and concession stand, the gift center, and the Loker Conference Center (conference center). The following table shows the projected net income from each of these enterprises as well as the foundation's overall operating income. However, while the foundation is projecting an operating income of \$28,000, it is inappropriately using the funds raised by its various science center enterprises, which masks the foundation's true financial position.

**TABLE 3**  
**Analysis of the California Science Center Foundation's  
 Projected Operating Loss For Fiscal Year 1998-99  
 (Dollars In Thousands)**

Income Source	Projected Income (Loss)/Net
Operating account*	\$ (869)
IMAX Theater	614
Gift Center	283
Net income	28
Less: Conference Center†	(21)
Less: Gift Center†	(107)
<b>Adjusted Net Income (Loss)</b>	<b>\$ (100)</b>

\* Net loss for the operating account includes net revenue from the conference center.

† Net income adjusted for depreciation of the investment in the conference and gift centers.

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*The science center is not using conference and gift center proceeds as the contracts stipulate.*

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When the foundation contracted with the science center to operate the conference center and the gift center, it agreed to maintain the proceeds generated by these two enterprises in a restricted fund. Further, the contracts stipulate that the proceeds must first be used to support operations of the conference center and the gift center; any remaining profits must be used to support exhibits and educational programs.

If the projected net income from the conference center and gift center is excluded from the foundation's budget, the foundation would actually have a \$100,000 operating loss rather than net income of \$28,000. Thus, the foundation's inappropriate use of restricted revenues is, in effect, concealing its true financial position. n

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# CHAPTER 2

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## ***Science Center Administrators Do Not Adequately Protect the State's Interests***

### CHAPTER SUMMARY

**E**ach of the California Science Center's (science center) three state-appointed executives also serves the California Science Center Foundation (foundation) in some capacity. As discussed briefly in Chapter 1, the science center's executive director and two deputy directors are compensated by the State and foundation in exchange for services they provide to both entities. While this is allowed under California Government Code, Section 18000.5, challenges in managing the new science center and carrying out plans for the future bring into question the ability of these executives to fully meet their state responsibilities while rendering services to the foundation. In addition, because the executive director and two deputies serve both the State and the foundation, they may be faced with competing interests. Furthermore, a series of decisions that these executives made and actions they took indicate that while serving the foundation they failed to adequately protect the State's interests. Moreover, many of these decisions appeared to favor the foundation over the State.

For example, the science center's executive director has not required the foundation to pay for exhibit maintenance despite its contractual obligations to do so. Rather, the State has paid to maintain the science center's exhibits even though they are foundation assets. Similarly, the executive director has permitted the foundation to utilize income that it generates from business enterprises it runs in the science center to support foundation operations, despite the fact that this income is contractually restricted to improving science center exhibits and education programs. Furthermore, the science center's management has not always ensured that the State has been reimbursed for expenses it has incurred when the foundation has rented out the Loker Conference Center (conference center) and other parts of the science center for special events. Finally, the science center's management has permitted the foundation to charge fees for

certain exhibits that are operated and maintained by the State. Meanwhile, the foundation has retained all such exhibit fees for its own use.

## THE SCIENCE CENTER MANAGEMENT IS NOT ENFORCING ITS AGREEMENTS WITH THE FOUNDATION

Because the two entities work so closely together, the science center and the foundation have established a number of agreements outlining the terms of their relationship. For instance, although one agreement requires the foundation to maintain exhibits in the science center, the State is paying the maintenance costs. In other examples, two contracts restrict the foundation's use of revenues generated by the enterprises it runs on the science center premises. All of these agreements ideally protect both the State and the foundation from misunderstandings regarding the nature of their relationship. However, since the science center's opening, its management either has not enforced these agreements or has interpreted them so that the foundation has received benefits rather than the State. Because the science center's management has not ensured the foundation fulfills its part of these agreements, the State's interests have been neglected and, in some cases, detrimentally affected.

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*Because the science center's management has not enforced agreements with the foundation, it has detrimentally affected the State's interests.*

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### Between February and December 1998, The State Paid More Than \$1 Million to Maintain Exhibits Owned by the Foundation

The general agreement between the State and foundation requires that the foundation exert its best efforts to raise funds to further the science center's goals. In addition, the agreement allows the foundation to install and manage the exhibits in the science center while also requiring that the foundation maintain those exhibits. However, contrary to the agreement, the State currently pays for the maintenance of exhibits and from February through December 1998, the State spent more than \$1 million for this purpose. These funds were partially made available because the Legislature increased the science center's fiscal year 1997-98 appropriation for exhibit maintenance. Unfortunately, in its Budget Change Proposals (BCPs), the science center failed to inform the Legislature the exhibits were foundation assets that the foundation was contractually obliged to maintain. Although

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*Although the foundation is responsible for maintaining exhibits, it spent less than \$21,000 to do so while the State spent \$1 million.*

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the foundation did incur some expense for exhibit maintenance from February 1998 through December 1998, the amount was less than \$21,000, as compared to the \$1 million the State spent.

The science center's executive director disagrees with our analysis of the general agreement. He contends that the exhibit maintenance clause refers to exhibits the foundation purchased for the old museum, stating that, although the exhibits are foundation assets, it is appropriate that the State pay for as much of the science center's maintenance as possible. However, our legal counsel reviewed the agreement between the State and the foundation regarding the exhibits and concurs with our conclusion that the foundation is responsible for their maintenance. Moreover, this example demonstrates the competing interests that science center executives face under the current governance model that allows for certain executives to serve both the State and the foundation.

#### **The Science Center Allows the Foundation to Use Restricted Revenues for Its Operations**

In addition to the general agreement, the State and the foundation have two other agreements outlining the terms under which the foundation is allowed to operate and manage business enterprises within the science center: one for the conference center and one for the gift center. Both the conference center and gift center agreements require the foundation to keep proceeds from these enterprises in restricted funds. The agreements specifically define how the foundation may use these funds. For example, the gift center agreement states that after the foundation recovers its costs of acquisition, proceeds shall be used only for the operations, maintenance, and improvement of the gift center or for the support of the science center's exhibits and educational programs. The language in the conference center agreement is essentially the same.

Yet, despite the specific terms of the agreements, the foundation has not earmarked these proceeds for restricted uses and in fact appears to be using the profits from these enterprises to fund its general operations; that is, to pay its salaries and purchase its office supplies. For example, the foundation's fiscal year 1997-98 audited financial statements show the gift center's revenues as a separate fund but not as a "restricted fund." In addition, for fiscal year 1998-99, the foundation is projecting combined net income for the conference center and gift center of \$349,000, and its

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*Rather than restrict its use of the funds as required, the foundation plans to use the projected net income from the conference center and gift center of \$349,000 to partially offset its own operating loss.*

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budget shows that it plans to use these profits to partially offset its projected operating loss<sup>3</sup>. Thus, because the science center has not enforced its agreement with the foundation to restrict the uses of the conference center and gift center proceeds, the State appears to be supporting the foundation's operations—which the general agreement specifically prohibits—rather than enhancing and improving the science center and its programs.

The foundation's chief financial officer (CFO) disagrees with our analysis of the conference center and gift center agreements. He contends that the use of the term "restricted fund" simply requires the foundation to account for each enterprise separately but does not limit the use of the proceeds. In addition, the CFO asserts that the foundation made loans from its other assets for the acquisition and business improvements of the gift center and conference center; and, as repayment of the loans, all profits are transferred to the foundation's operations.

Contrary to the foundation's CFO's assertions, we found two pertinent clauses in the agreements. The first requires, as the CFO asserted, that the foundation maintain a separate accounting of revenues and expenses for these enterprises. However, a second clause specifically limits the use of proceeds from each enterprise to operations, maintenance, and improvement of the enterprise, after which remaining funds are for the benefit of the science center's exhibits and educational programs. It is this second clause that the foundation has consistently violated.

Moreover, although we recognize the foundation's right to recoup its investment under the gift center and conference center agreements, the foundation's accounting for its investments is suspect. An investment is depreciated over a reasonable period of time; in this instance, we used five years. It should be noted that the agreements also allow the foundation to allocate overhead costs to the gift center and conference center. However, because the foundation has not allocated its overhead, we have omitted it from our calculation. After depreciating the foundation's investment, we estimate that the gift center and conference center will have a projected combined net profit for fiscal year 1998-99 of at least \$128,000. Therefore, under its agreements with the State, the foundation is required to use this income for the science center's exhibits and education programs.

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<sup>3</sup> For a further discussion of the foundation's current operating deficit, please see Chapter 1.

## The Foundation Pledged the Use of State Property and Other Resources Without the State's Consent

In September 1998, the foundation, under the executive vice president's (science center executive director) signature, entered into an agreement with the United States Holocaust Memorial Museum (Holocaust Museum) to exhibit "*Remember the Children, Daniel's Story*." In so doing, the foundation committed the use of state property and other resources during the exhibition. However, contrary to the State's general agreement with the foundation that requires a Memorandum of Understanding be drawn under such circumstances, the science center's executive director did not prepare one. As a result, the executive director failed to protect the State's resources and instead allowed the foundation to commit them. Finally, this example demonstrates that the science center's dually compensated executives do not adequately distinguish between the foundation and the State and therefore do not always protect the State's interests.

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*Difficulties with the foundation's arrangements for an exhibition are symbolic of the problems that can arise when dually compensated executives do not distinguish between competing interests.*

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Under its agreement with the Holocaust Museum, the foundation agreed to house the "*Daniel's Story*" exhibit on state property, in a state facility from September 1998 until January 1999. It also agreed to make certain improvements to the facility, funded by the Holocaust Museum. For this purpose, the science center's chief of plant operations, a state employee, secured a construction contractor and monitored the work. He also signed the construction contract for the facility improvements. As a result, the chief of plant operations performed duties for the foundation on state time and, by signing the construction contract, may have created a liability for the State.

In addition to providing space to house the exhibit, the foundation agreed to clean the exhibit, provide around-the-clock security, and supply other trained personnel. These services, along with staff who worked in the exhibit and directed traffic flow, were all paid for by the State even though it never contractually committed itself to this exhibit. The State has not requested nor received reimbursement for these services from the foundation.

Bringing "*Daniel's Story*" to the science center was not necessarily an ill-intended act on the part of the foundation. However, the foundation's assumption that it could spend the State's resources as it pleased without the State's approval is symbolic of the problems that can arise when employees are compensated by both the State and a private entity.

## THE SCIENCE CENTER DOES NOT ENSURE THAT IT IS REIMBURSED FOR EVENT EXPENSES

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*When state employees work on foundation events, the foundation should reimburse the State.*

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When the science center was constructed, a state-of-the-art conference center was included in its design. Based on an agreement with the State, the foundation invested in the conference center and, in consideration of that investment, was given the authority to manage it. This authority included the ability to rent out the conference center and parts of the science center itself for private parties and meetings. According to the agreement, select state employees would work at these functions on a reimbursement basis and the State would share in certain user fees, such as charges for outside caterers who use the science center's facilities. However, despite the provisions in its agreement with the foundation, the State does not always bill the foundation for janitorial and other services it provides. Further, the State has no process to ensure it receives its share of catering fees from events that included outside caterers.

### The Science Center Does Not Always Bill the Foundation for Janitorial Services

When the foundation rents out the conference center or science center, state-compensated janitorial staff set up beforehand and clean up afterwards. Because the foundation operates the conference center, it is responsible for reimbursing the science center for the associated costs, as specifically stated in its contract with the science center. However, the science center does not consistently invoice the foundation for the overtime hours that its janitorial staff incurs during these events. By not billing the foundation for these expenses, the science center management is failing to protect the State's interests.

To determine if the science center was adequately billing janitorial overtime to the foundation, we reviewed the staffing plans for a sample of 11 events held in fiscal year 1997-98 as well as the corresponding requests for reimbursement the science center submitted to the foundation. Of the 11 events, we found that in 5 instances the science center did not bill the foundation for janitorial services performed by state employees.

For example, in April 1998, the foundation booked a film premiere for approximately 900 guests. Eight janitorial staff each worked approximately six and one-half hours of overtime setting up tables, cleaning rest rooms, and putting away tables. However,

the State did not bill the foundation for approximately \$1,100 in personnel costs associated with the eight janitors' time. Similarly, in June 1998, the foundation booked a private dinner party in the science center for 500 guests. The State assigned nine janitors to this event and each janitor worked approximately six hours of overtime. Again, the State failed to bill the foundation for those services, which totaled more than \$1,000 in personnel costs.

In addition to these instances in which the science center failed to bill the foundation for overtime incurred by its janitors, we found that the science center regularly asked its janitorial staff to perform services for the foundation during their normal shifts. We reviewed the logistics summaries for seven events that the foundation booked in the conference center and science center in January 1999, including a private party hosted by a foundation trustee, and found that each required janitorial services. However, for six of the seven events, we found no overtime authorizations for the science center's janitorial staff.

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*We found that the science center regularly asked its janitorial staff to perform services for the foundation during their normal shifts.*

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For example, the foundation requested janitorial services for a three-hour dinner party held in the science center. Janitors were required to set up tables and chairs to accommodate approximately 175 guests, and to keep the area clean throughout the dinner. Similarly, at another event a foundation trustee hosted, the janitorial staff were required to clean the banquet room, set up 12 tables and 64 chairs, set out trash containers, and clean and restock the bathrooms. The janitorial staff also cleaned up after this event.

According to the science center's deputy director of operations, if an event takes place during normal business hours, the janitors should not charge for overtime because the work was performed during their regular shifts. Yet, contrary to this opinion, state employees should not be providing services to the foundation on state time. Moreover, the foundation is contractually obliged to reimburse the State for these expenses and the science center management should be invoicing the foundation appropriately. In addition, it is disturbing that the deputy director of operations, an employee compensated by both the State and the foundation, should fail entirely to perceive the State's perspective on this matter. Again, this example demonstrates that the science center's dually compensated executives do not adequately distinguish between the foundation and the State and therefore do not always protect the State's interests.

## The Science Center Does Not Always Bill the Foundation for Public Safety Services

When the foundation rents the conference center and portions of the science center itself for private parties, the science center's public safety officers provide security at the science center and within Exposition Park. However, the science center does not always ensure the foundation is billed the appropriate fees for the public safety officers' time.

Public safety runs three shifts to provide for 24-hour security in the park. The officers patrol the park's grounds, parking lots, and buildings. When the foundation books private events in the conference center, the shift assigned at that time may work the event as part of their normal shift assignment or additional officers may work overtime. According to the conference center agreement, the science center should be invoicing the foundation for the officers' services.

We reviewed several events to determine if the science center properly invoiced the foundation and if the foundation had reimbursed the science center as invoiced. Our examination of the science center's accounts receivable report found that the science center had modified 11 of the invoices it submitted to the foundation, reducing the amount owed. According to the deputy director of operations, who is also the foundation's senior vice president of operations, the foundation's events services department had disagreed with invoices the public safety office had submitted. As a result, the deputy director had approved adjustments to the invoices, reducing the number of janitors and security officers assigned to the events as well as the hours these staff had worked. Ultimately, the amount the foundation owed the State was reduced by almost \$6,400.

The deputy director of operations could not provide any support for the invoice adjustments he had approved. Therefore, for 6 of the 11 adjusted invoices, we reviewed the event logistic summaries, the staff shift assignments, the monthly time sheets, and the overtime authorization records. Using these documents, we concluded that 5 of the 6 original invoices should not have been adjusted because the billings originally rendered to the foundation were accurate. Furthermore, notwithstanding the deputy director's adjustments, the science center failed to bill the foundation for

almost \$900 worth of services in its initial invoices. Therefore, between the adjustments the deputy director of operations made and the science center's failure to bill for services, the State is owed more than \$3,500 for just these five events.

### The Science Center Does Not Collect Its Share of Catering Fees

Although the science center has an in-house caterer, customers who rent the conference center are allowed to use their own caterers for an additional \$1,000 fee. According to the agreement between the science center and the foundation, the additional catering fee is to be shared equally. However, the science center does not have a process to ensure that it receives its share of catering fees and, in the past, it has not billed the foundation in a timely manner for the fees that it is owed. The foundation's records show that between February 1998 and December 31, 1998, at least 17 private events in the conference center were served by outside caterers. Therefore, the foundation collected approximately \$17,000 in outside caterer fees during this time. Because the science center has not established a process to ensure that the State receives its share of these fees, it is unclear if the science center collected the State's share. However, the science center's records do demonstrate that its billing processes have been tardy. For example, in February 1999, the science center billed the foundation for a catering fee for an event that took place in April 1998, 10 months earlier. In response to our concerns, the science center recently sent invoices to the foundation for the remaining 16 events.

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*No process exists to ensure that the State receives its share of the \$1,000 fee the foundation collects for each privately catered event.*

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### THE SCIENCE CENTER IS IN EFFECT WITHHOLDING FUNDS FROM THE EXPOSITION PARK IMPROVEMENT FUND AT THE EXPENSE OF THE STATE

The Exposition Park Improvement Fund (Fund 267) is intended to be used for parkwide improvements such as the maintenance of parking lots and facilities, the acquisition of land, and the replacement of science center equipment. State law requires the science center to deposit all revenues it receives for parking, facilities rental, or other business activities into this fund. However, because of its agreements with the foundation, the science center has effectively withheld revenue from Fund 267

by circumventing state laws. As a result, the State has provided Exposition Park with the additional funds necessary for parkwide improvements and public safety.

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*By granting control of business enterprises to the foundation, the science center circumvented state law that requires it to deposit revenue into the Exposition Park Improvement Fund.*

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On average, the Legislature appropriates \$2.1 million each year to Fund 267 for Exposition Park improvements. However, the law used to require that the first \$832,765 of the revenues Fund 267 received each year from parking, facilities rentals, or other business activities be transferred to the State's General Fund. Thus, the State would give Fund 267 \$2.1 million each year but receive \$832,765 back. This changed in 1997, when, in response to sharply decreased parking revenues and a request to restore public safety staff in Exposition Park to previous levels, the Legislature modified Fund 267's provisions by eliminating the General Fund transfer. In effect, the State thus added \$832,765 to Exposition Park's annual appropriation.

While the State was attempting to ensure that Fund 267 held adequate revenues to pay for public safety and park improvements, the science center effectively bypassed Fund 267 by giving control of its business activities to the foundation. When the science center opened in February 1998, the foundation began operating three enterprises within it: the IMAX theater, the gift center, and the conference center. By granting control of these enterprises to the foundation, the science center circumvented the state law that requires it to deposit all business activities revenue into Fund 267. The revenue was not being earned by the science center, but rather by the foundation—and the foundation did not have to abide by the same restrictions. As a result, in fiscal year 1998-99, the foundation is projecting a net income of \$963,000 from the three business enterprises operated in the science center, yet none of this money will be used for park improvement or public safety.

#### **ALTHOUGH IT DOES NOT HAVE AGREEMENTS PERMITTING IT TO DO SO, THE FOUNDATION EARNS AND RETAINS REVENUE FROM CERTAIN SCIENCE CENTER INTERACTIVE EXHIBITS**

In addition to the business enterprises it operates, the foundation has collected revenue from several other sources inside the science center. First, it has received fees paid by visitors to experience two interactive exhibits: the high-wire bike and the space-docking simulator. In addition, it has retained donations

placed in science center donation boxes. Finally, it has charged schools to reserve seats at another exhibit: an animatronic woman named “Tess” viewed in a theater setting.

The exhibits are foundation assets, while ownership of the donation boxes is unclear. Nonetheless, the foundation does not have agreements with the science center to levy these charges for certain exhibits. Moreover, as noted previously, the State pays to maintain the exhibits in the science center, including those that the foundation is charging visitors to use. The State also pays the costs for most of the guest services staff who work in the science center and run the interactive exhibits.

### The Foundation Has Profited From Interactive Exhibits and From the Donation Boxes

The high-wire bike and space-docking simulator have been a source of considerable profit for the foundation. For \$3, visitors can ride the high-wire bike; for \$5, they can experience the space-docking simulator. From February through December 1998, the foundation collected more than \$118,000 from these two exhibits alone, although the science center and foundation have no agreement regarding who should profit from these exhibits.

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*Over an 11-month period, the foundation retained \$360,000 collected from donation boxes located at the entrance to the science center.*

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In addition to the exhibits, the foundation also has collected significant revenue from the donation boxes at the science center’s entrance. Signs on each box suggest a suitable donation but do not identify that this money is being collected for the foundation. Again, the foundation does not have an agreement with the science center regarding the donation boxes’ contents; nonetheless, the foundation has retained these funds. From the science center’s opening through December 1998, the foundation collected roughly \$360,000 from the donation boxes.

The executive director and deputy director of operations contend the foundation is allowed to retain the income from the high-wire bike, space-docking simulator, and the donation boxes to offset its guest services costs. The guest services staff at the science center are primarily employees of the foundation, although the State pays the majority of their costs through a contract with the foundation. However, the deputy director contends that the foundation pays more guest services costs than it receives in reimbursements from the State. Therefore, the deputy director argues, revenues from the exhibits are meant to allow the foundation to recoup some of its guest services costs.

Between the opening of the science center in February 1998 and December 1998, the foundation incurred \$653,984 in guest services expenses. However, it has more than recouped those costs. Specifically, during this same time period, the foundation earned revenue from the two exhibits and the donation box totaling \$478,589. In addition, the foundation received reimbursements from the State for the guest services contract totaling \$457,869. Therefore, as Table 4 demonstrates, the foundation actually earned \$282,474 in excess of its guest services costs from these exhibits and donations.

**TABLE 4**

<b>California Science Center Foundation Analysis of Guest Services Revenue and Costs</b>	
Foundation's total guest services costs	\$653,984
Less state contract	457,869
<b>Guest Services Costs Not Paid by the State</b>	<b>196,115</b>
Exhibit Revenue	
High-wire bike	\$108,507
Space-docking simulator	10,360
Donation boxes	359,722
<b>Subtotal Exhibit Revenue</b>	<b>478,589</b>
<b>Amount Collected In Excess of Guest Services Costs</b>	<b>\$282,474</b>

As the table shows, the executive director has clearly favored the foundation's interests above those of the State. By allowing the foundation to make a significant profit on exhibits the State maintains and staffs, the executive director has not protected the State's interests. Moreover, by failing to negotiate a contract with the foundation that would allow the State to receive its portion of the revenue from the interactive exhibits and donations, he has in effect caused the State to subsidize the foundation.

On March 23, 1999, the executive director and the deputy director of operations identified additional expenses they contend should be included in our calculation. However, the expenses identified are for education-related programs for which the

science center has a separate revenue stream. Therefore, we disagree that these additional expenses should be included in our calculation.

### The Foundation Is Charging Reservation Fees for an Exhibit

In addition to profiting from the interactive exhibits and the donation boxes, the foundation has also collected revenues from “Tess,” a 50-foot animatronic woman who lights up and moves to demonstrate various body systems and their functions. The exhibit is a theater presentation with limited seating and specific show times. Guest services staff operate Tess and escort visitors into and out of the theater.

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*The foundation charges school groups \$1 per student to reserve seats for a free exhibit.*

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Admission to the science center and its exhibits, including Tess, is free. However, since January 1999, large groups of visitors, such as schools, have needed to reserve seating in order to view Tess between 10 a.m. and 1 p.m. on weekdays at a cost of \$1 per seat. According to the internal memo instituting this fee, school groups without reservations were not to be admitted to the exhibit even if the theater was empty. The foundation, which coordinates the group reservations, has retained all fees collected. Since the implementation of the reservation policy, the foundation has collected \$2,695 for Tess reserved seating.

The \$1 charge for Tess appears contrary to the science center’s philosophy of free admission, a philosophy that the State supports. The science center’s executives, including its executive director, have indicated that they too oppose the establishment of admission fees because the fees would undercut the science center’s goal of encouraging low-income children to learn about science. Yet, they have allowed such a fee to be established. By barring groups without reservations from viewing the Tess exhibit, the science center has essentially barred groups that have not paid the fee. Moreover, by acting against his own expressed policy of free admission, the executive director has furthered the interests of the foundation over those of the State.

On March 23, 1999, the science center’s deputy director of operations claimed that the memo we received regarding Tess did not represent the science center’s policy nor influence actual practice. Although the memo we obtained may not have been the intended policy, the science center’s deputy of education and exhibits and the foundation’s vice president of education, both of whom established the policy for Tess, informed us the policy was verbally relayed to the science center staff. Therefore, it would

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*The science center's school programs brochure lists Tess as a fee-based program.*

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appear that the memo we obtained is the only written instruction science center staff received. Moreover, when we inquired with science center staff about viewing Tess as a group, their response to our questions were consistent with the memo's instructions (i.e., no admittance for school groups between 10 a.m. and 1 p.m. weekdays if the group did not pay the fee). Finally, we reviewed the science center's school programs brochure in which Tess is listed as a fee-based program. Although the instructions in the brochure state that "unreserved spaces will be filled on a first-come, first-served basis," it is not evident that school groups will be admitted to Tess without paying the fee.

### **THE EXECUTIVE DIRECTOR VIOLATED CONFLICT-OF-INTEREST LAWS IN SIGNING AGREEMENTS WITH THE FOUNDATION**

As discussed previously, the science center's executive director is also the foundation's executive vice president. He receives compensation from the State and from the foundation for services he provides to each entity. As the executive vice president of the foundation, he is responsible for overseeing all the foundation's operations. He has similar responsibilities in his role as a state employee. As the executive vice president, all foundation personnel report to him, as do all state-compensated science center employees.

Because the foundation and the science center contract with each other, the executive director has a conflict of interest when signing contracts between the entities in his state capacity. For example, the State contracted with the foundation for specialized functions including guest services, animal care, and education programs in fiscal years 1997-98 and 1998-99. The value of each contract was \$484,000 to \$569,000, respectively. The science center's executive director signed each contract on behalf of the State and the foundation's chief financial officer signed for the foundation. However, because of the executive director's employment relationship with the foundation, he has a conflict of interest.

California Government Code, Section 1090, states that public officials may not have a financial interest in any contract they sign in their official capacity. A financial interest is defined in California Government Code, Section 87103(c), as an income source, either received or promised, of \$250 or more in the previous 12 months. Because the foundation compensates the

science center's executive director, he has a financial interest in the foundation. As a result, he has a conflict of interest and may not authorize or approve contracts between the foundation and the State. Moreover, notwithstanding his financial interest in the foundation, the executive director has fiduciary responsibilities for both entities' operations. It thus seems clear that he cannot reasonably oversee the contract for the State and deliver services to the foundation; these two roles are at odds with each other. Furthermore, while we did not find evidence of it, a similar conflict of interest would exist for the two science center deputy directors who are also compensated by the foundation.

### THE FOUNDATION HAS NOT COMPLIED WITH ALL ASPECTS OF THE GOVERNMENT CODE CONCERNING DUAL COMPENSATION

In 1986, California Government Code, Sections 18000.5 and 19990.5 were enacted. These code sections allow science center employees, under certain conditions, to be compensated by both the State and a nonprofit corporation such as the foundation. The code states that employees may receive compensation as payment for services rendered and for expenses incurred in performing such services. The Department of Personnel Administration (DPA) is responsible for reviewing and approving the compensation from a second source. In addition, names of dually compensated employees and amounts of compensation must be reported annually to the Office of the State Controller (controller).

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*The foundation has not fully disclosed compensation paid to the science center executives or filed required reports with the State Controller.*

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As stated before, the science center has three executives who are compensated by both the State and the foundation. However, the foundation has not fully disclosed these executives' compensation to the DPA, nor has it consistently reported it to the controller. As of December 31, 1998, the foundation provides its executive director and two deputy directors from \$10,000 to \$20,000 a year in salary, an amount that is in addition to the officials' annual state salaries, which range from \$80,000 to \$93,000. In addition, the foundation provides each of these executives with perquisites, such as car allowances and club memberships. As stated earlier, compensation includes payment for services and expenses. Although in 1987 the foundation informed DPA that its executives did not at that time have expense accounts, the foundation's subsequent reports of compensation were incomplete because the reports did not include information regarding car allowances, memberships, etc.

As the science center's executive personnel changed and the foundation sought approval to compensate them, the foundation did not disclose or request approval for such perquisites.

Furthermore, the foundation has failed to file required reports with the controller's office. California Government Code, Section 18000.5 requires the foundation to annually report the names of dually compensated state employees and the amounts of their compensation to the controller. In addition, until we brought it to the foundation's attention, it had not reported this information to the controller since 1991. On February 9, 1999, the foundation sent a letter to the controller stating that its failure to report the information was merely an oversight. However, we noted that although the foundation's letter to the controller contained a listing of state employees and their monthly compensation from the foundation from July 1, 1991, through June 30, 1998, it failed to report perquisites these executives received.

By not fully disclosing the executives' compensation to the DPA or reporting it in a timely manner to the controller, the foundation has failed to provide essential information to two of the State's control agencies. As a result, the DPA's ability to assess or monitor the foundation's relationship with the science center has been hindered, as has its power to determine whether the compensation and perquisites remain reasonable and in the State's best interest. n

# CHAPTER 3

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## *The Science Center's Administration Has Failed to Operate in a Fiscally Responsible and Legal Manner*

### CHAPTER SUMMARY

**A**s established in Chapter 2, the California Science Center's (science center) management has inadequately protected the State's interests in matters of potential conflict between the State and the California Science Center Foundation (foundation). But perhaps as important, the science center's administration has also failed to operate in a fiscally responsible and legal manner in other aspects of its operations.

Our review found a number of instances of inadequate managerial oversight and employee misconduct. Specifically, we determined that some science center employees have inappropriately received compensation for hours they did not work. We also found that science center staff have violated state contracting procedures and circumvented state controls in administering contracts. In addition, the science center has allowed a food service vendor to operate on its premises without a contract for more than a year. Further, we determined that the science center has not employed reasonable methods to verify that the State is receiving all of the parking revenues to which it is entitled. Finally, we noted that the science center has not established processes to assure that it promptly collects receivables owed to the State.

### **PUBLIC SAFETY OFFICERS ARE FALSIFYING OVERTIME SLIPS AND SUBSEQUENTLY RECEIVING COMPENSATION FOR HOURS THEY DID NOT WORK**

The science center includes a Department of Public Safety (public safety), which is responsible for providing 24-hour security for Exposition Park. Public safety employs 24 security officers who work in eight-hour shifts. Since the new science center opened in February 1998, public safety officers have logged large amounts of overtime. Although some of the

increased overtime hours and the associated cost can be attributed to the increased attendance and special events held because of the opening of the new science center, we found that some officers submitted duplicate overtime slips. By submitting duplicate overtime slips, these officers falsely inflated the number of overtime hours they actually worked.

While testing invoices the science center submitted to the foundation, we noticed what appeared to be errors in the amount of overtime several of these public safety officers claimed for certain days they worked. Specifically, we identified two instances where public safety officers submitted more than one overtime authorization for the same event on the same day. Moreover, upon further review we determined that the science center paid these public safety officers for all the hours they claimed including those that were duplicated. To determine whether these two instances were errors or false claims, we conducted a test of attendance and overtime records for public safety.

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*Seven public safety officers falsified their overtime slips and were paid for hours they did not work.*

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To conduct our testing, we selected a sample of overtime claims submitted between July 1, 1997, and January 31, 1999. In total, we selected 27 claims and found 12 instances where 7 different public safety officers had submitted duplicate overtime slips and subsequently had received paid compensation for overtime hours they had not worked. In 8 of the 12 instances, 2 different supervisors had approved the duplicative overtime slips.

For example, we determined that one officer had submitted three overtime slips for the same day and the hours shown on each of the slips partially or completely overlapped. In addition, by submitting the three overtime slips, the officer claimed that he had worked 29 hours that particular day. While the officer most likely did work some overtime hours, we determined that at least 13 of the 29 hours were duplicative; thus, the officer inappropriately received \$269.62 in overtime pay. Table 5 shows the science center paid a total of \$2,324 for the 96 hours claimed on the duplicate overtime slips in our sample.

**TABLE 5**

**Science Center Department of Public Safety  
Analysis of Duplicate Overtime Hours and Compensation**

Item No.	Officer	Pay Period	Date of Overtime	No. of Overtime Hours Duplicated	Overtime Hourly Rate	Duplicate Amount Paid
1	Officer A	March 1998	03/23/98	8	\$25.90	\$ 207.20
2	Officer B	March 1998	03/22/98	8	20.74	165.92
3	Officer C	April 1998	04/02/98	13	20.74	269.62
4	Officer D	May 1998	05/02/98	4	14.08	56.32
5	Officer E	May 1998	05/05/98	5	26.26	131.30
6	Officer F	May 1998	05/25/98	8	25.00	200.00
7	Officer G	June 1998	06/10/98	5	23.80	119.00
8	Officer E	June 1998	06/07/98	13	26.26	341.38
9	Officer E	June 1998	06/10/98	3	26.26	78.78
10	Officer A	July 1998	07/19/98	5	25.75	128.75
11	Officer A	July 1998	07/20/98	8	25.75	206.00
12	Officer E	August 1998	08/22/98	16	26.26	420.16
<b>Totals</b>				<b>96</b>		<b>\$2,324.43</b>

In addition, our review revealed that the chief of public safety had also inappropriately received compensation for overtime hours worked. In our payroll sample of May, June, and July 1998, the chief claimed more than 100 overtime hours for which he then received roughly \$3,900 in pay. The chief is a 4C employee, which means his regular rate of pay is full compensation for all time worked. Therefore, he is not eligible to receive compensation for overtime hours.

After identifying and confirming the improper overtime claims and subsequent payments for the public safety officers in our sample, we referred this matter to our Investigations Division for additional follow-up.

## THE SCIENCE CENTER VIOLATED STATE CONTROLS IN ADMINISTERING CONTRACTS

During fiscal years 1996-97 and 1997-98, the science center entered into a series of contracts to construct a new guest services area and to remodel offices that house state and foundation staff. To reduce the dollar amounts of these contracts and therefore avoid review by the Department of General Services (DGS), the science center split several of these contracts into jobs of smaller scope. In addition, the science center overpaid some contractors, allowed other contractors to complete work prior to signing a contract, inappropriately paid invoices using its revolving fund, and allowed the fiscal officer to approve both contracts and subsequent payments for those contracts.

### The Science Center Split Contracts to Circumvent Review by the State

The science center circumvented state contracting controls when it awarded 10 contracts for construction services to three contractors from April 1997 through February 1998. The State Administrative Manual requires state agencies that intend to award contracts exceeding \$20,000 to seek approval from the DGS. In the aforementioned instances, the science center contracted much of the work either on a room-by-room basis or in phases to keep contract values under \$20,000.

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*The science center contracted on a room-by-room basis to keep award amounts under the \$20,000 ceiling.*

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For example, the science center awarded four contracts to the same contractor for four phases of construction for the new guest services area in the science center. The contractor submitted bids for each of these four contracts on the same day and the contract periods overlapped, indicating that the work reflected one large project rather than four individual projects. While the amount of each of the four contracts was less than \$20,000, the total cost to complete all four phases of construction exceeded \$65,000. Thus, by splitting the construction work for the new guest services area into four different contracts, the science center circumvented state contracting controls.

The individual responsible for bidding and preparing the contracts, the science center's chief of plant operations, said the work was let room-by-room and in phases because it was a simple approach to take and he did not realize that it circumvented the

State's contracting procedures. The science center's executive director stated he was not aware of the problems associated with these and other contracts.

### The Science Center's Fiscal Management of Contracts Is Poor

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*The science center overpaid a contractor and improperly made payments from its revolving fund and a stale appropriation.*

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In addition to circumventing state controls, the science center overpaid a contractor and made contract payments from both its revolving fund and a stale appropriation. In the first instance, the science center overpaid one contractor by approximately \$3,500. The overpayment on this contract was caused by change orders; however, the science center did not amend the contract to include the new work scope or to increase its payment terms.

On March 23, 1999, after searching for several months, the science center produced a contract amendment; however, neither the amendment nor the encumbrance was signed by the science center management. Therefore, the amendment as presented is not valid.

In another instance, the science center allowed a contractor to complete construction work prior to signing a contract and then improperly used its revolving fund to pay the contractor \$11,855. The work for the project was completed between December 1997 and January 1998. However, the science center did not send a contract to the contractor for signature until February 1998—one full month after the contractor had completed the work and invoiced the science center for payment. Furthermore, we found no evidence to indicate that the science center had advertised the contract.

In paying this contractor, the science center used money from its revolving fund. According to the State Administrative Manual, revolving funds may be used only in specific instances when immediate payment is necessary, such as for earned compensation or for traveling expenses or advances. Because the science center did not execute the contract with this construction firm in a timely manner, pressure to pay the contractor may have led to the payment from the science center's revolving fund. However, in determining whether immediate payment is necessary, the critical factor is whether payment could be made through the normal claim processing procedure. Therefore, payments to contractors in the normal course of business are not an

appropriate use of revolving funds. The science center's fiscal officer who authorized the payment recently resigned and the remaining staff could not explain why this payment was made from the revolving fund.

In a final example of an inappropriate payment of a contract, the science center entered into a construction contract to remodel office space in April 1997. While the contractor's bid was dated April 1, 1997, and the contract term ran from April 15 to April 25, 1997, the science center encumbered funds from its fiscal year 1994-95 appropriation to pay the expenditures related to this contract, and in May 1997, the contractor was paid. According to California Government Code, Sections 16304 and 16304.1, a state department has one year to encumber or commit its appropriation and three years to expend it. Therefore, funds from the fiscal year 1994-95 appropriation would have had to be committed in that fiscal year and expended by June 30, 1997. Yet, the fiscal officer's signature approving this encumbrance was dated April 17, 1997, and the contract file did not contain any evidence that the contract had been let in fiscal year 1994-95 and delayed until April 1997. Thus, it appears that the funds were not encumbered during fiscal year 1994-95 but rather in April 1997. Despite his signature approving the contract, the science center's executive director could not explain why funds from fiscal year 1994-95 were used.

#### **Although It Received a Lower Bid From the Same Contractor, the Science Center Chose To Pay the Higher Amount**

In April 1997, the science center awarded a construction contract to a local firm to remodel some office space. The approved contract amount was approximately \$32,000 and was based on an April 1, 1997, bid for the same amount. The science center paid the contractor more than \$32,000 in April 1998, when the DGS granted contract approval, a full year after the remodeling work had been completed.

Yet, while reviewing this contract file, we found a second bid from the same contractor for \$25,000 also dated April 1, 1997, the same date as the \$32,000 bid. Although the bid amounts were different, the work scope on each was identical. Furthermore, we also found a duplicate copy of the contract with the firm for \$25,000. Again, the work scope in the

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*After preparing duplicate contracts, one for \$32,000 and another for \$25,000, the science center ultimately paid the higher amount.*

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\$25,000 contract was identical to the scope of work for the \$32,000 contract. The science center’s fiscal officer and the construction firm had signed both contracts. In addition, the science center’s fiscal officer encumbered funds for both contracts, albeit one for \$32,000 and another for \$25,000, on the same day, April 17, 1997.

It is unclear why the science center received two bids, both dated April 1, 1997, one significantly lower than the other for an identical scope of work. In addition, it is not clear why the science center would prepare and sign two contracts, one for \$25,000 and the other for approximately \$32,000, and ultimately execute the more costly one. The contract amounts are such that either would require DGS approval. When asked, the science center’s executive director could not explain the duplicate bids and contracts for this construction project.

#### The Science Center Did Not Maintain Sufficient Internal Controls Over Contract Payments

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*In 11 of 12 contracts reviewed, the fiscal officer signed the contract and later approved payments to the vendors.*

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California Government Code, Sections 13402 and 13403, require the heads of state agencies to establish and maintain a system of internal controls within their agencies. A key element in a system of internal controls is separation of duties, such as the authority to approve invoices for payment and the authority to sign checks for the same vendors. Yet, of the 12 contracts we reviewed, the fiscal officer had signed 11, even though he later approved payments to those same contractors.

The science center’s executive director has acknowledged that the fiscal officer’s actions conflicted with one another and stated that he did not believe the fiscal officer had the authority to sign contracts. However, we obtained a signature authorization card dated March 26, 1993, and signed by the science center’s executive director that entrusted the fiscal officer to “approve or execute . . . any and all contracts and fiscal documents.” Therefore, the fiscal officer was acting as authorized. Additionally, on January 6, 1999, following the fiscal officer’s resignation, the science center’s deputy director granted this same authority to the business services officer who is currently the most senior staff person remaining in the science center’s business services office.

## THE SCIENCE CENTER DOES NOT HAVE A CONTRACT WITH ITS FOOD SERVICE OPERATOR

In June 1996, the science center published a Request for Proposal (RFP) for food service operations that would include running the new cafeteria and catering for events held at the science center. Food service was viewed both as a way to enhance the visitors' science center experience and as an income opportunity for the science center. The science center received two proposals in response to its RFP and, in December 1996, selected Sodexho Marriott Services (Sodexho) as its food service operator.

As specified in the RFP, Sodexho constructed its kitchen and serving area in the science center's designated space and began operations in February 1998, when the science center opened. However, as of March 26, 1999, more than one year later, the science center still does not have an agreement with Sodexho. Moreover, because the proposed agreement, dated December 1998, is significantly different from Sodexho's original financial proposal, the DGS has concluded that it does not reflect the 1996 proposal. As a result, the science center is now attempting to provide the necessary justification to classify the agreement as a sole-source contract.

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*More than one year after its opening, the science center does not have an agreement with its food service operator.*

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According to the science center's executive director, an agreement had been reached with Sodexho in 1998. However, shortly before the science center opened in February of that year, the executive director reviewed the agreement and refused to sign it. Apparently, the director identified several clauses in the contract that were not acceptable. For example, the science center's RFP required the food service operator to construct the kitchen and serving area, a cost that was estimated at \$850,000. Sodexho ultimately spent \$1.3 million on this construction and it was unclear in the original agreement whether the science center might be required to absorb some of this additional expense. As a result, the science center reopened contract negotiations with Sodexho.

### Recent Proposal Requires the Science Center to Use a Sole-Source Contract for Its Food Service Agreement

In December 1998, the science center prepared a request for approval to use a sole-source contract for its agreement with Sodexho. The request cites contract review delays, the financial commitment Sodexho made to construct the kitchen and

serving area, as well as the science center's good working relationship with Sodexo as reasons to grant the sole-source contract approval. In addition, the request states that the sole-source contract is necessary to avoid potential litigation. The science center did not submit its request to the DGS, the department responsible for reviewing and approving such requests. Rather, it submitted the sole-source request to the State and Consumer Services Agency, the agency to which the science center reports, and on December 31, 1998, the last business day of her appointment under Gov. Wilson, the State and Consumer Services Agency undersecretary approved the science center's request. Therefore, it appears that the science center's agreement with Sodexo is only pending legal review by the DGS.

### THE SCIENCE CENTER IS NOT ENSURING THAT THE STATE RECEIVES ALL PARKING REVENUES TO WHICH IT IS ENTITLED

As the State's representative in Exposition Park, the science center oversees several parking lots within the park. Currently, the science center uses an outside vendor, Five Star Parking (Five Star), to collect fees and maintain the parking lots. Although the science center allows Five Star to act as its intermediary in the parking lots, its last valid contract with Five Star was in 1995. As a result, the State may not be receiving all of the revenue that it is due, and may not have recourse for reclaiming the lost revenue

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*Because it has not had a valid contract with its parking vendor since 1995, the State may have no recourse for reclaiming lost parking revenues.*

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Since 1990, the science center has failed to consistently secure DGS' approval for its proposed contracts with Five Star. Between 1990 and 1995, the science center had only two valid contracts with its parking operator. Those contracts covered the period March 1993 through February 1995. Since 1995, the science center has submitted proposed contracts to the DGS but has failed to make the changes the DGS required. For example, the DGS has at various times requested that the science center alter its contracts to clarify the terms of the agreement, to include certain necessary documents or attachments, and to justify the associated costs. The science center did not make these changes; therefore, the DGS did not approve the proposed contracts.

In mid-January 1998, the science center submitted to the DGS for approval a proposed contract with Five Star for the period April 1, 1998, through March 31, 1999. The DGS reviewed it,

noted some items that needed clarification, and on February 2, 1998, sent it back to the science center. The items needing clarification include simple definitions of terms and specification as to how the parking fees collected would be delivered to the State. However, the science center did not respond to DGS' concerns. Instead, in February 1998, the science center and Five Star both signed the contract. Nonetheless, because it was not approved by the DGS, the agreement the science center signed with Five Star is not a binding and enforceable contract.

Moreover, Five Star has not abided by terms of this agreement. According to the agreement, Five Star is required to submit all parking fees it collects to the science center. In turn, the science center pays Five Star 9.98 percent of those gross receipts, which represents Five Star's share of the revenue. From this share, Five Star must pay for all of its expenses, including but not limited to maintenance of the parking lots.

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*For just the three months we reviewed, the State lost more than \$93,167 in parking revenue.*

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However, we reviewed invoices for three months and found that rather than submitting gross receipts to the State, Five Star had first deducted its expenses and then remitted the balance for one of the lots. For the other lots, Five Star simply withdrew 13.82 percent of gross receipts, a larger percentage than allowed under its current agreement with the science center. The larger percentage withheld by Five Star is the figure the science center agreed to in a prior, yet unenforceable, unapproved contract. As a result, rather than earning 9.98 percent, Five Star actually withheld 24.03 percent of gross receipts. Because the science center's management failed to address the DGS' concerns regarding the proposed contract, the State has lost significant revenue from its parking lots. For example, the State lost more than \$93,167 in just the three months we had chosen for our sample.

After bringing our concerns to the science center's attention, on March 16, 1999, the deputy director of operations sent a letter to Five Star requesting it to comply with the April 1998 agreement. In response, on March 25, 1999, Five Star submitted a check to the science center for approximately \$39,000. However, this amount, which represents collections from April 1, 1998, through February 28, 1999, is significantly less than the amount we identified in our sample of three months.

## THE SCIENCE CENTER DOES NOT PROPERLY MONITOR, COLLECT, OR PROCESS ITS RECEIVABLES

The science center has failed to properly monitor and collect its receivables. According to its accounting records, as of February 1, 1999, the science center had outstanding receivables in excess of \$211,000, some of which dated back to fiscal year 1988-89. Accounting personnel stated that they did not have standard procedures for collecting overdue receivables, such as issuing duplicate invoices, sending letters to the debtor, and making phone calls.

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*Three entities within Exposition Park, including the foundation owe more than 50 percent of the science center's outstanding receivables.*

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Over 50 percent of the \$211,000 outstanding receivables is owed to the science center by three entities: the California African-American Museum, the Los Angeles Sports Arena, and the science center's own foundation. Moreover, of the \$41,301 in receivables outstanding for fiscal year 1997-98, \$35,914 (86 percent) is owed by either the foundation or the Los Angeles Sports Arena.

The California African-American Museum and the Los Angeles Sports Arena are located in Exposition Park, and the science center has business dealings with them on a regular basis. Similarly, science center and foundation staff are housed in the same building and have business dealings daily. Yet, even though the science center regularly interacts with all three entities, it cannot demonstrate that it has taken any proactive steps to collect these overdue amounts. As a result, the receivables have remained uncollected for long periods of time, thus reducing their potential for eventual collection. n

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# OTHER MATTERS FOR LEGISLATIVE CONSIDERATION

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## THE PARTICIPATION OF STATE BOARD MEMBERS ON OTHER GOVERNING BODIES WITHIN EXPOSITION PARK CREATES AN APPEARANCE OF A CONFLICT

A nine-member board of directors (state board) appointed by the governor manages the affairs of the California Science Center (science center), which is located within Exposition Park (park). In addition to their duties as members of the state board, eight of these nine individuals also serve either on the Coliseum Commission, or on the executive committee for the California Science Center Foundation (foundation), as shown in Table 6. As state board members, these individuals are responsible for protecting state interests while performing tasks such as negotiating leases with park tenants. However, by serving in governing roles for the foundation and the Coliseum Commission, the state board members have placed themselves in positions where they may have conflicting duties and responsibilities.

### Members Who Serve on Both the Coliseum Commission and the State Board Have Conflicting Responsibilities

The Coliseum Commission is a Joint Powers Authority consisting of nine representatives: three representing the Los Angeles County Board of Supervisors, three representing the Los Angeles City Council, and three representing the State. According to the Coliseum Commission's joint powers agreement, the state board appoints the three state representatives from its own membership—thus, three state board members also serve as members of the Coliseum Commission, and one is currently the Coliseum Commission's president. Yet, because the state board is responsible for managing the State's interests in the park, these representatives may face difficult decisions that affect both the State and the Coliseum Commission.

**TABLE 6**

**Science Center State Board of Directors' Membership  
on Other Governing Bodies in Exposition Park**

State Board Members	State Board Member Role		Science Center Foundation Executive Committee		Los Angeles Coliseum Commission	
	Calendar Year 1999	Calendar Year 1998	Fiscal Year 1998-99	Fiscal Year 1997-98	Calendar Year 1999	Calendar Year 1998
1 Peter Dautrieve	Member	Member			Member	Member
2 Thomas Decker	Vice President	Vice President	Past Chair	Past Chair		
3 Denise Friedman	President	Member	Member	Member		
4 Roger Kozberg*	Member	Member			Member	Member
5 Margo O'Connell*	Member	President	Member	Member		
6 Sheldon Sloan	Member	Member			President	Vice President
7 Frank Ulf	Member	Member	Vice President	Vice President		
8 Salvador Vazquez	Member	Member			Alternate	Alternate
9 Peter Stamison	Member					

\* Board member's term expired on January 15, 1999; however, the governor has yet to appoint a replacement.

The following examples highlight the potential problems with this structure. State law grants the state board the authority to oversee ground leases for property that the State owns in the park, including the land on which the Los Angeles Memorial Coliseum (coliseum) stands. Currently, the Coliseum Commission and the state board are negotiating the coliseum's lease; however, none of the representatives have recused themselves from either side's negotiations or from granting contract approval.

In addition, the Coliseum Commission recently appointed two of its state board members to a four-member committee that is currently negotiating with the New Coliseum Venture to bring a professional football team to the coliseum. Although the State is not directly involved in these negotiations, the decisions made by this negotiating committee and the Coliseum Commission may directly impact it because the State owns and leases the land on which the coliseum stands. Therefore, by serving on both the state board and the Coliseum Commission, the state representatives are placed in a position of serving competing interests.

Finally, because both boards consist of nine members and only require five members to constitute a voting majority, these three state board/Coliseum Commission members could significantly influence decisions on the behalf of one entity or the other. Moreover, for seven months, from June 1998 to January 1999, there was a vacancy on the state board. Therefore, the potential for influence from these three board members was increased.

#### **State Board Members Who Are Also on the Foundation's Executive Committee Face Competing Interests**

Four members of the science center's state board also serve as members of the executive committee of the foundation. The foundation, a nonprofit corporation established to promote development of the science center's exhibits and educational programs as discussed in Chapter 1, has a board of trustees with the power to conduct, manage, and control its affairs. However, the board of trustees has delegated these powers to its executive committee, which consists of a total of 35 members. Because the executive committee is so large, the state board members probably could not materially influence its decisions. However, these four members' participation in foundation decisions could influence their actions on the state board.

Historically, the state board approves agreements between the State and the foundation. For example, the state board approved the Loker Conference Center and gift center agreements as discussed in Chapter 2. As such, the state board must review the agreements to determine if they are in the State's best interests. Similarly, the state board is required to grant approval for state employees to receive compensation by both the State and the foundation. In so doing, the state board must determine whether the services the employees would provide to the foundation are compatible with their state responsibilities or would interfere with the employees' full-time obligations to the State. Because the state board members who are also on the foundation are expected to serve its interests as well, the members may have difficulty objectively assessing the appropriateness of the contracts and services the state employees provide to the foundation.

## THE STATE BOARD'S LEGAL COUNSEL CANNOT ADEQUATELY JUSTIFY ITS MEMBERS' PARTICIPATION ON THE COLISEUM COMMISSION

As we began to investigate the various issues arising from the problem of overlapping board memberships, we contacted the deputy attorney general who serves as legal counsel to the state board and also to the Coliseum Commission.<sup>4</sup> We requested his opinion regarding the potential for influence, particularly as it relates to contract approval, land-lease negotiations, and legal representation. Specifically, we asked the deputy attorney general to explain why it is appropriate for members of the state board to participate as members of the Coliseum Commission. The deputy's attorney general's response referred to the joint powers agreement, which states that three members of the state board will be appointed to the Coliseum Commission. In addition, the deputy attorney general referred to Food and Agricultural Code, Section 3965(c), which invests the state board with the authority to make all necessary rules, regulations, and bylaws to govern itself.

Although the deputy attorney general's rightfully pointed out the documents that call for the state board's membership on the Coliseum Commission, he failed to address why the state board's membership on the Coliseum Commission is appropriate and to identify the purpose it serves. Moreover, he did not explain why and how membership on the Coliseum Commission did not conflict with membership on the state board.

We then asked if any members of the state board who also serve on the Coliseum Commission had recused themselves from either of the two group's activities; the deputy attorney general responded that, on occasion, the members had. Because we did not ask for specific examples of the members' actions, the deputy attorney general did not provide any. However, we reviewed the state board's meeting minutes from January 1997 through February 1999, and did not find reference to any state board members recusing themselves from the state board's activities.

The deputy attorney general was then specifically asked about the roles and responsibilities of the two state board members serving on the Coliseum Commission's negotiating committee and whether their appointment created a conflict-of-interest

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<sup>4</sup> Because we have concerns with the deputy attorney general representing both the state board and Coliseum Commission, we addressed this issue with his employer, the Department of Justice.

situation. The deputy attorney general stated he did not attend the negotiating committee's meetings and therefore did not know what the members' roles and responsibilities were. With regard to the conflict of interest for these two members, the deputy attorney general stated that there is generally no conflict of interest under the relevant state statutes if the member of the state board who is also a member of the Coliseum Commission is financially disinterested.

While the deputy attorney general confirmed our understanding of the conflict-of-interest codes, he did not address the question because he did not confirm the absence or existence of a conflict of interest for these two members. The deputy attorney general simply outlined how a conflict of interest might be determined.

## **RACIAL DISCRIMINATION COMPLAINT**

In the original request for this audit, the Legislature asked that we review a specific discrimination complaint. However, during the Joint Legislative Audit Committee hearing, the science center's executive director stated that an outside firm was actively investigating this personnel issue and that a report on the matter was due in the fall of 1998. As a result, we planned to build upon the outside firm's investigation in our work. However, the firm's report was not finalized until mid-January 1999, and a copy was released to us only in March 1999. Based on our review of the investigative report, we have since concluded that it does not address all the issues raised in the original audit request. Therefore, we plan to undertake additional audit work to examine personnel practices at the science center and will issue a separate report. n

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# CONCLUSIONS AND RECOMMENDATIONS

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**I**n its attempt to use a public-private partnership to enhance the California Science Center (science center), the State has essentially relinquished governance to the California Science Center Foundation (foundation). Whereas the State historically controlled science center policy, management, and operations, these functions are now primarily under foundation direction. This is particularly troublesome because the State invested significantly more funds for construction of the new science center than the foundation and continues to furnish the majority of the program support.

The shift in governance is further evidenced by the failure of state-appointed executives to properly protect the State's investment and interest in the science center. The State's weakened position is confirmed through a series of decisions these executives made or actions they took, many of which appear to favor the interests of the foundation over those of the State. In addition, the science center management has faltered in directing the State's business by failing to operate in a fiscally responsible and legal manner. Therefore, our recommendations address the changes needed to assure proper protection of the State's investment in the science center while at the same time allowing the science center to continue its public-private partnership with the foundation. In addition, our recommendations will aid the science center to operate in a fiscally responsible and legal manner while providing proper control over the substantial investment and continuing support from the Legislature.

## **The Legislature Should Consider Eliminating the Statute That Provides for Dual Compensation of Employees at the California Science Center**

The science center's executive director and two deputy directors receive compensation from the foundation for services they provide to the foundation. While allowed under a 1986 amendment to California Government Code, Section 18000.5, significant changes and additional challenges in managing the new science center and carrying out plans for the future bring into question the ability of these executives to fully meet their state responsibilities while at the same time continuing to render

services to the foundation. Furthermore, a series of decisions these executives made and actions they took indicate that while rendering services to the foundation they put the foundation's interests above the State's. Because the State has a substantial investment in the science center and continues to provide its primary support, the Legislature should re-examine California Government Code, Section 18000.5 and determine whether allowing state employees to render services to a nonprofit corporation for additional compensation continues to serve the State's best interest.

### **The State Needs to Regain Management Control of the Science Center**

To regain management control of the science center so that the State's interests are better protected, the State and Consumer Services Agency (agency) should do the following:

- Ensure that science center management adheres to civil service hiring requirements and utilizes civil servants in management positions to ensure the State occupies positions of authority that set policy. In addition, science center management should expand its hiring practices to fill vacant positions as quickly as possible to ensure that the science center functions safely and effectively.
- Consider restructuring the reporting responsibilities of management at the science center so that the deputy director of administration responsible for the State's fiscal and accounting operations reports directly to an individual at the agency rather than to the executive director of the science center.
- Hire a deputy director of administration, and fill other vacant midlevel management positions within the science center's administration as quickly as possible.

### **The State and Consumer Services Agency Should Ensure Full Compliance With State Laws Regarding Compensation of Science Center Employees**

Until such time that the Legislature changes California Government Code, Section 18000.5 that allows science center employees to be compensated by the State and a nonprofit corporation—in the science center's case, its foundation—all requirements of the statute should be followed. The code requires the foundation to first obtain the Department of Personnel Administration's

approval and report annually the names of employees and amounts of compensation to the Office of the State Controller. However, the foundation has failed to comply with these requirements. To ensure that the foundation provides essential information to two of the State's control agencies, the agency should ensure that the foundation does the following:

- Complies with California Government Code, Sections 18000.5 and 19990.5 by fully disclosing to the Department of Personnel Administration the compensation it intends to provide to science center employees including all perquisites such as car allowances and club memberships, and reporting annually this same information to the Office of the State Controller.

### **Science Center Administrators Need to Protect the State's Interests, Particularly In Its Relationship With the Science Center's Foundation**

The science center's executive director has failed to enforce many of the agreements between the science center and the foundation. For example, despite the foundation's contractual obligation to do so, the foundation is not paying the costs of maintaining exhibits housed in the science center. Furthermore, rather than earmarking them for exhibits and educational programs, the foundation uses the proceeds it generates from enterprises it runs in the science center to support its own operations. Finally, the State has not billed the foundation for services it provides to the foundation in support of events held at the Loker Conference Center. To regain control of its resources, the science center should review and enforce all agreements with its foundation. Specifically, the science center should do the following:

- Require the foundation to pay costs of exhibit maintenance.
- Ensure that the foundation retains the proceeds from its gift center and Loker Conference Center operations in restricted funds and limits the use of net profit from these operations for science center exhibits and educational programs.
- Immediately prepare Memorandums of Understanding (MOUs) for all exhibits currently housed in the science center and develop procedures to ensure that it prepares MOUs for any future exhibits displayed at the science center. The MOUs should clearly outline certain provisions, such as the exhibit's location; the length of time it will be housed in the science center; the subject or purpose of the exhibit; and

the responsibility for installation, operation and maintenance of the exhibit. In addition, the MOUs should specify any fees charged for the exhibit's use or viewing and how those fees will be used.

- Promptly bill and collect from the foundation amounts owed for all events for which the State rendered services to the foundation including janitorial and public safety.
- Prohibit science center staff from providing services to the foundation on state time; and when staff work overtime to support events, ensure that it compensates the staff accordingly.
- Immediately identify and collect the State's share of fees paid by outside caterers to the foundation for events. In addition, develop the means by which outside-catered events can be independently verified to ensure the State is receiving all the fees it is due.
- Submit current and future agreements that it has with the foundation to a designated individual at the agency for review and approval of terms and conditions in those agreements. The designated individual at the agency should ensure that provisions in any and all agreements are in the best interest of the State.
- Submit its contracts with its foundation to the Joint Legislative Budget Committee for review so the committee can determine whether a certain portion of net income from the science center's business enterprises should be deposited into the Exposition Park Improvement Fund for specified purposes.

#### **Science Center Employees Should Abide by All Relevant Conflict-of-Interest Laws and Regulations**

The science center's executive director and two deputies receive compensation from the State and foundation for services they provide to each entity. The science center and foundation contract with each other for services. However, under California Government Code, Section 1090, public officials may not have a financial interest in any contract they make in their official capacity. A financial interest is defined in California

Government Code, Section 87103(c), as an income source, either received or promised, of \$250 or more in the previous 12 months. Because of their dual employment, these executives have a financial interest in the foundation and may not sign contracts with it on behalf of the State. Nonetheless, on at least two occasions, the executive director did. To ensure that the science center's executives mitigate conflicts of interest in the future, the science center administrators should review the relevant conflict-of-interest laws and abide by these laws in its dealings with the foundation and otherwise.

### **The Science Center Needs to Improve Controls for Approval and Payment of Overtime**

Since February 1998, when the new science center opened, public safety officers have logged large amounts of overtime. Some of the increased overtime hours and the associated costs can be attributed to the increased attendance and special events held because of the opening of the new science center. However, we found that some officers submitted duplicate overtime slips, thus inflating the number of overtime hours they actually worked. These officers subsequently received compensation for hours they did not work. To reduce the opportunities for false time reporting, the science center should do the following:

- Establish an overtime-approval process, including a review and reconciliation of all overtime worked by an employee, before the employee is paid for that time.
- The science center should correct any matters resulting from the work currently being conducted by the Bureau of State Audits' Investigative Division.

### **The Science Center Should Comply With All Contracting Laws, Rules, and Regulations**

In fiscal years 1996-97 and 1997-98, the science center let a series of construction contracts. However, it did not follow state contracting rules because the science center failed to advertise and bid the contracts. In addition, the science center split large projects into smaller ones thus allowing it to avoid the Department of General Services' approval on the contract. Furthermore,

the science center overpaid a contractor and paid another from its revolving fund. To ensure that it prepares and administers contracts properly the science center should do the following:

- Follow all applicable state contracting rules and regulations, including but not limited to, the rules and regulations regarding advertising, competitive bidding, Department of General Services' approval, and payment of contractors.

### **The Science Center Should Take Immediate Steps to Obtain Valid Enforceable Contracts for Its Food Service and Parking Operations**

The science center selected Sodexo as its food service operator in December 1996. The science center viewed the food service as a way to enhance its guests' experience and a source of revenue for the State. However, as of March 26, 1999, more than one year after it opened to the public, the science center does not have an agreement with Sodexo. To ensure that it lets a valid and enforceable contract that serves the State's best interest, the science center should do the following:

- Submit the proposed contract to a designated individual at the agency for review and approval.
- Continue its negotiations with the food service operator and promptly submit the proposed contract to the Department of General Services for review and approval.

The science center, as the State's representative in Exposition Park, oversees several parking lots within the park. Although the science center allows Five Star Parking to act as its intermediary to collect parking fees, it has had only two valid contracts with Five Star Parking since 1990 because the science center has failed to secure the Department of General Services' approval of its proposed contracts. As a result, the State may not be receiving all of the revenue that it is due and may not have recourse for reclaiming any lost revenue from past operations. To ensure that the state receives all parking revenues to which it is entitled, the science center should do the following:

- Immediately prepare the necessary documents to advertise and solicit bids from potential parking lot operators. After selecting a bidder, the science center should work with the Department of General Services to ensure that it completes a valid and enforceable contract.

- Take the necessary steps to determine if it is possible to recoup parking revenue lost during the past several years.
- Establish procedures to monitor the parking lot operator to ensure that the parking contractor follows all terms and conditions in the contract.
- Develop a process to periodically verify the accuracy of the revenue collected in the parking lots.

### The Science Center Needs to Improve Its Process for Monitoring and Promptly Collecting Receivables

The science center does not properly monitor, collect, or process its receivables. According to its accounting records, as of February 1, 1999, the science center had outstanding receivables exceeding \$211,000, some of which dated back to fiscal year 1988-89. Moreover, more than 50 percent of the balance is owed by three entities with which the science center has frequent business dealings. To ensure it collects the funds it is owed, the science center should do the following:

- Establish processes to continually monitor and actively collect its accounts receivable. For those debts it has determined are uncollectable, the science center should seek the Board of Control's approval to write off those bad debts.

### Other Matters for Legislative Consideration

The governor appoints a nine-member board of directors to oversee the State's interests in Exposition Park and the science center. However, each of these nine board members sit on a governing board for another entity in the park. For example, three state board members also sit on the Coliseum Commission. In addition, all nine state board members are trustees of the science center's foundation. The state board members have to make complex decisions that affect one or more entities in Exposition Park. By serving as members of the Coliseum Commission or trustees of the foundation, there is the potential for certain members to influence decisions made by the state board. Therefore, we recommend the following:

- The Legislature review the structure of and the relationships among the state board, the foundation's board of trustees, and the Coliseum Commission and determine whether

membership on more than one board or commission potentially compromises state board members' ability to protect the State's interests.

- The governor promptly appoint two new members to the science center's state board to replace the members whose terms expired on January 15, 1999.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG  
State Auditor

Date: April 7, 1999

Staff: Elaine M. Howle, CPA, Audit Principal  
Sharon L. Smagala, CPA, Audit Supervisor  
Tony Nevarez  
Hitomi Sekine, CPA  
Nicette L. Short

*Agency's response provided as text only:*

State and Consumer Services Agency  
915 Capitol Mall, Suite 200  
Sacramento, CA 95814

April 5, 1999

Kurt R. Sjoberg, State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

RE: CALIFORNIA SCIENCE CENTER: THE STATE HAS RELINQUISHED CONTROL  
TO THE FOUNDATION AND POORLY PROTECTED ITS INTERESTS

The State and Consumer Services Agency (Agency) appreciates the opportunity to respond to your review of the California Science Center (Science Center). Enclosed is the Science Center's response to the Bureau of State Audits' Report No. 98115 entitled *California Science Center: The State Has Relinquished Control to the Foundation and Poorly Protected Its Interests*, as well as a copy of the response on a diskette.

We appreciate your recognition of the contribution of the Science Center's staff and the Boards of the Science Center as well as the California Science Center Foundation (Foundation) in creating a new state-of-the art science education facility. By changing the way that children learn about science, the Science Center is dramatically impacting their future and the future of California.

The Agency recognizes and is grateful for the many contributions of the volunteer members of the Science Center Board and the Foundation which has contributed more than \$33 million to the recent "capital campaign" to help make the new Science Center one of the finest educational facilities of its kind. The Science Center is a world-class institution and is a vital resource in improving the science, math, and technology skills of California's children.

While acknowledging the many contributions of this public/private partnership, we also recognize and will address the concerns set forth in the review. We pledge to work with both entities to address each recommendation.

The review identifies a number of areas that we believe will be immediately addressed by hiring a Deputy Director of Administration and other state personnel to ensure that appropriate fiscal, accounting, and contractual procedures are implemented. Thus, we will work with the Science Center's Board and staff to fill vacant State positions that will strengthen the Science Center's fiscal, accounting, and contractual procedures. In addition, we will initiate periodic reviews by the Department of General Services. The Agency will request the Department of General Services to report their findings regarding the Science Center's fiscal, accounting, and contractual procedures to the Agency so that the procedures recommended in the review are followed.

Moreover, we will review with legal counsel the conflict of interest laws and will implement as soon as possible information sessions for the Science Center's staff and Board so that everyone is advised of their obligations pursuant to the conflict of interest laws. Furthermore, we will develop procedures so that all agreements between the Science Center and the Foundation are reviewed and approved by a designated individual at the Agency who will ensure those agreements are in the best interest of the State. While recognizing the importance of public/private partnerships, we will also work with the Legislature to study and resolve conflict of interest issues related to the governance of Exposition Park.

Finally, the new administration at the Agency will use the insight this review has given us and work diligently with the Science Center's staff, the Boards of the Science Center and Foundation and your staff to enhance this state-of-the-art Science Center.

Sincerely,

*(Signed by:)*

Clothilde V. Hewlett  
Undersecretary

Enclosure

California Science Center  
700 State Drive  
Los Angeles, CA 90037

**Date:** April 2, 1999

**To:** Aileen Adams, Secretary  
State and Consumer Services Agency  
915 Capitol Mall, Room 200  
Sacramento, CA 95814

**From:** California Science Center

**Subject: RESPONSE TO BUREAU OF STATE AUDITS' REPORT NO. 98115 –  
“CALIFORNIA SCIENCE CENTER: THE STATE HAS RELINQUISHED  
CONTROL TO THE FOUNDATION AND POORLY PROTECTED ITS  
INTERESTS”**

Thank you for the opportunity to respond to Bureau of State Audits' (BSA) Report No. 98115 which includes recommendations addressed to the California Science Center (Science Center). The following response addresses each of the recommendations.

### **OVERVIEW OF THE REPORT**

The Science Center has reviewed the findings, conclusions and recommendations presented in Report No. 98115. As discussed in this response, appropriate actions will be taken to address the recommendations.

Overall, the Science Center is pleased that the BSA's extensive and in-depth audit of its operations primarily identified administrative and organizational issues that do not have a significant impact on the accomplishment of the center's mission. Further, we are particularly pleased that there are no suggestions in the audit report of any spending by either the State or the California Science Center Foundation (Foundation) other than to advance the Science Center's mission. The mission is to stimulate and nurture interest in science, mathematics, and technology, to take an interdisciplinary approach that places them in a social and cultural context, and to provide leadership within the science education community.

The audit does raise questions pertaining to organizational issues that need to be addressed. However, it should be recognized that the current public/private partnership arrangement with the Foundation has resulted in the creation of a hugely successful science center that has been internationally recognized as a leader in science education and a model organizational structure. In fact, the professional accreditation review team that conducted the center's most recent accreditation review recognized the role both of Science Center, i.e., State, and Foundation

employees in the success of the center. The team's report concluded that center staff are very professional and work well as a team. This teamwork atmosphere primarily results from each organization and all employees being focused on the same vision and mission and striving to achieve the same goals and objectives. This commonality of approach has contributed to the State of California having a world-class science education center for use by its families, students and educators.

The success of the science center is the result of the significant contributions of both the State and the Foundation. Therefore, we are pleased that the BSA's report recognizes that the State's partnership relationship with the Foundation has contributed to enhancing the science center. The Foundation has a rich history of supporting the educational goals of the institution since the 1950s. It is a stable and fiscally responsible organization overseen by highly qualified trustees who take their fiduciary responsibilities very seriously.

In sharing the same vision and mission, the Science Center and the Foundation function together to form one entity with the common goal of furthering the interests of the State's educational science center. While maintaining a true partnership relationship, provisions have been made to protect the basic interests of both parties. The State's interests are protected in many ways. These include the three-year operating agreement with the Foundation which allows the termination of the agreement with six months notice. In the event of termination, the agreement provides that all assets of the Foundation are to be transferred to the State. Further, the agreement provides that the Science Center's Board of Directors retains sole discretion and authority regarding the selection and appointment of Science Center employees, including the Executive Director. Operating practices also provide that while Science Center employees may supervise Foundation employees the reverse is not allowed.

The audit raises organizational structure and policy issues that need to be addressed in a broader arena. The Science Center's management is available to assist interested parties in further understanding the current operating relationships and the advantages and disadvantages of different alternatives. The audit also raises concerns with weaknesses in various systems of internal control that have already been addressed or are being currently addressed. Due to the complexity of the Science Center's operating environment and the rapid growth it has experienced, it is not surprising that further areas for improvement were identified during the in-depth audit.

In summary, although recognizing that there are further actions which should be taken to improve operations, the Science Center is pleased with the overall effectiveness of its partnership relationship with the Foundation. The Science Center welcomed over 2 million guests in its inaugural year and has been positively recognized for its accomplishments in various regional, national and international media forums.

The following response only addresses the recommendations. Since they have been extensively discussed in past meetings with the BSA's staff, our disagreements with some findings, supporting data and resulting conclusions will not be repeated in this response.

**RECOMMENDATIONS  
TO  
CALIFORNIA SCIENCE CENTER**

**RECOMMENDATION # 1:**        *Require the foundation to pay costs of exhibit maintenance.*

**SCIENCE CENTER RESPONSE # 1:**

This issue depends on a legal interpretation of the contract between the Science Center and the Foundation. Historically, the Science Center has considered exhibit maintenance part of its responsibility. The Science Center will submit the contract for legal review and will take appropriate actions based on that review.

**RECOMMENDATION # 2:**        *Ensure that the foundation retains the revenue from its gift center and Loker conference center operations in restricted funds and limits the use of net revenue from these operations for science center exhibits and educational programs.*

**SCIENCE CENTER RESPONSE # 2:**

Although currently maintained in separate bank accounts which allows the ready identification of the use of revenue, additional actions will be taken to ensure that the revenue from the referenced operations are clearly identified as restricted funds. The net revenue will be used only for Science Center exhibitions and educational programs.

**RECOMMENDATION # 3:**        *Immediately prepare Memorandums of Understanding (MOU) for all exhibits currently housed in the science center and develop procedures to ensure that it prepares MOUs for any future exhibits displayed at the science center. The MOUs should clearly outline certain provisions such as the exhibit's location, the length of time it will be housed in the science center; the subject or purpose of the exhibit; the responsibility for installation, operation and maintenance of the exhibit. In addition, the MOU should specify any fees charged for the exhibit's use or viewing and how those fees will be used.*

### **SCIENCE CENTER RESPONSE # 3:**

The Science Center has developed appropriate MOU's for current exhibits in accordance with the agreement between the Science Center and the Foundation. Currently, these MOU's are pending approval. The Science Center will take steps to ensure that future MOU's contain all relevant information and are created in a timely manner.

**RECOMMENDATION # 4:**        *Promptly bill and collect from the foundation amounts owed for all events services for which the State rendered services to the foundation including janitorial and public safety.*

### **SCIENCE CENTER RESPONSE # 4:**

After this issue was brought to the attention of the Science Center's management, the management began reviewing its policies and procedures regarding billing and collection for event related services. The Science Center is now ensuring that collections are made for such costs when appropriate.

**RECOMMENDATION # 5:**        *Prohibit science center staff from providing services to the foundation on state time; and when staff work overtime to support events, ensure that it compensates the staff accordingly.*

### **SCIENCE CENTER RESPONSE # 5:**

The Science Center is initiating procedures to ensure that whenever its employees perform work on a non-State related event, the State will be appropriately compensated for the work and staff will be appropriately compensated whenever overtime is involved.

**RECOMMENDATION # 6:**        *Immediately identify and collect the State's share of fees paid by outside caterers to the foundation for events. In addition, develop the means by which outside-catered events can be independently verified to ensure the State is receiving all the fees it is due.*

### **SCIENCE CENTER RESPONSE # 6:**

The Science Center has identified and collected all fees due to the State for the use of outside caterers. Also, Science Center staff now receive reports which allow the identification of outside-catered events. Based on these reports, the Science Center verifies that it receives all fees due.

**RECOMMENDATION # 7:**        ***Submit current and future agreements that it has with the California Science Center Foundation to a designated individual at the State and Consumer Services Agency for review and approval of terms and conditions in those agreements. The designated individual at the State and Consumer Services Agency should ensure that provisions in any and all agreements are in the best interest of the State.***

**SCIENCE CENTER RESPONSE # 7:**

Historically, the agreements with the Foundation have been reviewed and approved by the Science Center’s Board of Directors, the State and Consumer Services Agency, and the Department of General Services. The Science Center will continue to submit its agreements with the Foundation to those parties.

**RECOMMENDATION # 8:**        ***Submit its contracts with its foundation to the Joint Legislative Budget Committee for review so the committee can determine whether a certain portion of net income from the science center’s business enterprises should be deposited into the Exposition Park Improvement Fund for specified purposes.***

**SCIENCE CENTER RESPONSE # 8:**

The Science Center will continue to submit contracts to the Joint Legislative Budget Committee in accordance with provisions within the State Budget Act. The provisions require that the Joint Legislative Budget Committee be notified of contracts that reduce State revenues or increase State costs by \$25,000 or more. Since its Foundation contracts are already submitted to the State and Consumer Services Agency for review and approval, the Science Center will rely on that entity to make the determination as to what additional information should be provided to the Legislature.

**RECOMMENDATION # 9:**        ***The science center administrators should review the relevant conflict of interest laws and abide by these laws in its dealings with the foundation and otherwise.***

**SCIENCE CENTER RESPONSE # 9:**

The Science Center will ensure that future contracts with the Foundation will not be signed by any employee who receives compensation from the Foundation. The Science Center’s administrators will review the conflict of interest laws.

**RECOMMENDATION # 10:**     ***Establish an overtime approval process including a review and reconciliation of all overtime worked by an employee before the employee is paid for that time.***

**SCIENCE CENTER RESPONSE # 10:**

When this issue was brought to the attention of the Science Center's management, a review was begun of the Center's overtime approval policies and procedures. The Science Center has adopted new policies and procedures to ensure that duplicate overtime slips are not approved.

**RECOMMENDATION # 11:**     ***The Science Center should comply with any future recommendations that result from the work currently being conducted by the Bureau of State Audits Investigative Division.***

**SCIENCE CENTER RESPONSE # 11:**

Upon conclusion of the investigation by the BSA and receipt of its recommendations, the Science Center will take appropriate actions to address applicable issues.

**RECOMMENDATION # 12:**     ***Follow all applicable state contracting rules and regulations including but not limited to the rules and regulations regarding advertising, competitive bidding, Department of General Services' approval, and payment of contractors.***

**SCIENCE CENTER RESPONSE # 12:**

The Science Center is taking steps to improve compliance with all contracting laws and policies. Specifically, the Science Center is establishing a professional classification for its budgeting and contracting function. The Science Center will ensure that this position is filled by an analyst who is well versed in the State's contracting requirements.

**RECOMMENDATION # 13:**

***Submit the proposed contract to a designated individual at the State and Consumer Services Agency for review and approval; and, continue its negotiations with the food service operator and promptly submit the proposed contract to the Department of General Services for review and approval.***

**SCIENCE CENTER RESPONSE # 13:**

The food service contract has been approved by the State and Consumer Services Agency and submitted to the Department of General Services for review and approval.

**RECOMMENDATION # 14:** *Immediately prepare the necessary documents to advertise and solicit bids from potential parking lot operators. After selecting a respective bidder, the science center should work with the Department of General Services to ensure that it completes a valid and enforceable contract.*

**SCIENCE CENTER RESPONSE # 14:**

The contract mentioned in the report that was returned by the Department of General Services has been corrected and resubmitted for approval. Prompt approval is anticipated.

**RECOMMENDATION # 15:** *Take the necessary steps to determine if it is possible to recoup parking revenue lost during the past several years.*

**SCIENCE CENTER RESPONSE # 15:**

As noted in the report, the parking contractor has already paid the Science Center approximately \$39,000. The appropriateness of past maintenance expenses deducted from revenues is being reviewed. If errors have been made, appropriate actions will be taken to collect any monies due the State.

**RECOMMENDATION # 16:** *Establish procedures to monitor the parking lot operator to ensure that the parking contractor follows all terms and conditions in the contract; and, develop a process to periodically verify the accuracy of the revenue collected in the parking lots.*

**SCIENCE CENTER RESPONSE # 16:**

The Science Center will closely monitor parking revenues and will ensure that all funds due to the State are paid by the parking contractor. In addition, the Science Center will request that the Department of General Services conduct an audit of the contractor's adherence to the terms and conditions of the contract.

**RECOMMENDATION # 17:** *Establish processes to continually monitor and actively collect its accounts receivable. For those debts it has determined are uncollectable, the science center should seek the Board of Control's approval to write off those bad debts.*

## **SCIENCE CENTER RESPONSE # 17:**

The Science Center has adopted new policies and procedures to improve the management of its accounts receivable and to ensure compliance with the State's collection policies and procedures. The Center is in the process of reviewing existing receivables to verify that they are valid. If they are valid, the Center will pursue those that are collectable and will submit those that are uncollectable to the Board of Control for write-off. If they are not valid, the Center will adjust its records accordingly.

## **CONCLUSION**

The Science Center has a firm commitment to operating in an effective and efficient manner. As part of its continuing efforts to improve policies over its operations, the Science Center will take appropriate actions to address the issues presented in the report.

If you need further information or assistance on this issue, please call me at (213) 744-7483.

*(Signed by:)*

JEFFREY N. RUDOLPH, Executive Director  
California Science Center

JNR:ac:worddata:director:98115rpt